A That is true.

Q Came down in a private plane, didn't he?

A That's true. That is, he informed me that he did, I didn't go out to the airport and check the plane.

Q And you saw him for a short time Sunday night?

A That's true, sir.

Q And then again after Court on Monday.

A Well, I saw him during the court, I saw him just before breakfast on Monday and I saw him during the court and I saw him after we left the court on Monday.

Q In the lobby of the hotel?

A That's true, sir.

Q Did you see him anywhere else?

A No, sir.

Q Did you see him any more that day?

A No, sir, he departed Nashville, I think, some time immediately following twelve o'clock, I don't recollect the exact time.

Q So the only times you saw him were just a few minutes Sunday night, at breakfast, for a few minutes in court and then there in the lobby after court?

A Yes, I said all in all I spent approximately two hours with Mr. Dorfman.

Q Is that the time that you spent down here discussing this important business with him?

A That's true, sir.

Q Didn't you talk about this case, the case in Nashville and the jury?

A Very casual conversations were made concerning the case. I knew he had an interest in the case but I had no personal interest in it at all in any way, shape or form.

Q Did Mr. Dorfman ask you if you knew anybody in Nashville?

A I don't recollect that he did or he did not, sir.

Q Didn't he also ask you if--did he tell you that he would like to know what jurors might be prejudiced?

A I don't think he ever made that statement to me, Mr. Hooker.

Q Didn't you tell the FBI agent that he had made that statement to you?

A I don't recall ever making the statement like that to the FBI.

Q You deny it?

A I say I don't recall if I have and if they have a signed statement from me I would acknowledge it but I don't believe they have a signed statement from me because I don't remember giving them one.

Q Well, do you recall telling the FBI agents that on the occasion there at the United States Courthouse that you believed that Dorfman had handed you a list of the

members of the Hoffa jury?

A Well, you answered that question by saying did I believe because I wasn't certain whether he did or not, it was a very insignificant thing.

Q I am asking you just what you told the FBI agents.

A I told them probably if the record is true, and perhaps it might be, although it's not a signed statement of mine, before I would have to say the record was true I would have to see the statement and sign it personally.

Q I am asking you for your own recollection about it, if at the courthouse on this only trip you ever made to Nashville in your life if Mr. Dorfman down there at the courthouse didn't show you a list of the jury and ask if you knew anything about it or any member of the jury?

A I believe I answered that question under direct examination that I thought he did, that I wasn't certain.

Q You thought he did?

A That's true.

Q What did you think about him asking you, a man from Huntington, West Virginia, about who you knew on a jury in Nashville in the Federal Court?

A Well, I wouldn't think anything about it, I don't see anything unusual about that, it's perfectly legal and proper to do a thing like that, isn't it?

Q Did you look over the list?

A I don't recall whether I scanned over the list or not.

Q Did you discuss the jury?

A No, I did not.

Q Now, that night you met some people that you knew, didn't you?

A No, that--which night are you speaking of?

Q I am talking about Monday night, October the 22nd.

A Monday night, October the 22nd, I met a gentleman that I was acquainted with all of my life, I met him for the first time in my life--for the first time in five years in Nashville, Tennessee, just like I meet people here in Chattanooga that I haven't seen for years.

Q What was his name?

A Mr. Frazier.

Q What does he do?

A Well, Mr. Frazier is an officer with the--

MR. GRADY: (Interposing) Your Honor, unless he is going to show something that is--

MR. HOOKER: (Interposing) I have a right to know.

MR. GRADY: There's nothing in direct. Is this another insinuation or what is it?

THE COURT: Overrule the objection.

MR. GRADY: Well, we object for the record that it's immaterial, irrelevant and designed for the purpose of

insinuating and prejudicial.

BY MR. HOOKER:

Q This the same man that you went to dinner with that night?

A Yes, I had dinner with Mr. Frazier that night.

Q The same man you went to Dallas Hall's place with that night?

A No, sir, he didn't accompany me to Dallas Hall's place.

Q He didn't go there?

A No, sir.

Q Who did you go with to Dallas Hall's?

A This gentleman introduced me to two people and I met them that night for the first time in my life, just like Miss Pettijohn and Miss Rippey, and those four people, that's the first time I met them in my life and I accompanied them at their invitation to Mr. Hall's place.

Q What position did you say--what did Mr. Frazier do?

A He was the Chief of Detectives of Huntington, West Virginia, and also an officer of the Fraternal Order of Police and being an officer of the Fraternal Order of Police I imagine he travels quite extensively throughout the United States, but I hadn't seen Mr. Frazier for five years.

Q Do you know what his business was in Nashville?

A I did not, sir.

Q Now, who were the other two gentlemen that you met that night and went to the Surf Rider Room for dinner with?

A They were a Mr. Cole and Mr. Paden.

Q Who were they?

A I didn't know anything at all about their background.

Q You don't know what they did?

A No, sir.

Q Where were they from?

A Well, they were from Huntington, West Virginia.

Q Huntington, West Virginia?

A That's right, sir.

Q Was Frazier from Huntington, West Virginia?

A I assume he was, he has lived there all of his life.

Q Well, do you know what were all these people from Huntington, West Virginia, doing here on the night before the commencement of the Hoffa trial?

A Well, sir, I can only answer that by there is a lot of people in Chattanooga here from Huntington, West Virginia.

Q You don't know why these other men were in Nashville?

A No, sir, I do not, sir.

Q So after you left the Surf Rider Room and spent a while there--yes, you went to some bars down in the alley, did you not?

A I think I testified we visited a place called The Black Poodle and another place, which the name of I don't recall, and then later on we terminated the evening by going to the Sportman's Lounge.

Q The Sportman's Lounge, that's the place that is operated by Dallas Hall?

A Yes.

Q Did you talk to Dallas Hall about the jury that night?

A Mr. Hall testified that we did but I honestly believe we didn't, we talked about the trial and not about the jury, we talked about the trial in general.

Q Did you have a jury list with you?

A I don't believe so.

Q Did you ever get a jury list while you were in Nashville?

A I don't believe so. The jury list that I noticed was about as thick as a Sears and Roebuck catalog and I am certain I wouldn't be carrying one of those things around.

Q You mean what you saw when you were in Nashville is some list of jurors that was two or three inches thick?

A No, I would say there must have been several hundred--well, I don't know the legal terminology, I am not a lawyer, but it certainly must have been the entire group of the people selected for the jury.

Q Well, did it have information on there about the jurors, just the names?

A I don't recollect, sir, whether it did or not.

Q You think it was about the size of a Sears Roebuck catalog with nothing but names?

A It seemed to me to be a rather thick list.

End Tk 11
Tk 11A fls

Q Now, Mr. Tweel, you spent most of the evening there talking to Dallas Hall, didn't you?

A No. I think we testified, he and I both, that we spent about 40 or 45 minutes talking to one another.

Q Had you ever met him before?

A No, sir, never met him before in my life.

Q And you went home then about -- about 12:00 o'clock?

A No.

Q No, about 2:00 o'clock?

A I think I testified that I arrived in my hotel about 2:00 o'clock in the morning, sir.

Q Now, you say that you don't remember for certain about your conversation with Mr. Dorfman on October 20th from the American Cigarette Service Company?

A No, sir, but I know that when I was subpoenaed the second time before the Grand Jury I gave the government all of my telephone records concerning Mr. Partin, Mr. Hall, and Mr. Dorfman, I gave them to them voluntarily and explained every call to the best of my ability.

Q Now, do you recall that when you got to Nashville on October 21st about 7:31 p.m. that night, Sunday night, that you called Mr. Dorfman from the Andrew Jackson Hotel at his residence in Deerfield, Illinois, and talked to him for 47 seconds?

A Well, I probably did because of the fact I wanted to know if he was going to arrive, we had intended to meet for dinner and he didn't show up, so I didn't know what happened to him.

Q So you called him that night?

A If the records so indicate I did call him, I couldn't recollect whether I did or not, but if the records show that I called him I called him. I knew that he was delayed in arriving and I probably was interested in finding out whether he left Chicago or not.

MR. HOOKER: If your Honor please, I'd like to offer for identification the record of a call on October 20th from Nicholas Tweel to Allen Dorfman and also for identification a call on October 22nd, Nicholas Tweel to Allen Dorfman.

MR. SCHIFFER: May I inquire --

THE WITNESS: (Interposing) Mr. Hooker, I think it's October 21st, not the 22nd.

MR. SCHIFFER: May I inquire, your Honor, were these exhibits turned over to the defense?

MR. HOOKER: Yes, my understanding is you all have had access to all of them, that's my understanding.

THE COURT: Allow them to be introduced for identification.

MR. ALEXANDER: May I see those, please?

MR. GRADY: We have no objection.

THE COURT: Allow them to be introduced for identification.

MR. ALEXANDER: May I see those, please?

MR. GRADY: We have no objections.

MR. NEAL: October 20th identified as Exhibit No. 157. October 21st --

MR. DALE: 158.

(Telephone company records referred to above were marked Government's Exhibits No. 157 and No. 158 for identification only.)

MR. HOOKER: Shall I proceed?

THE COURT: Yes, sir.

BY MR. HOOKER:

Q Now, Mr. Tweel, on October 27th, after you got back to Huntington, did you call Mr. Dorfman from the American Cigarette Service Company to his residence in Deerfield, Illinois, and have a 47-second conversation with him then?

A Mr. Hooker, like I say, I made about 300 calls a month during that period. It would be pretty hard for me to recollect any particular call any particular time it was made and the length of the call, but the records are of my -- but my telephone records speak for themselves, all of my calls are either charged to my office or to my credit card, I do not make any pay station telephone calls, sir, I charge them either to my office or my credit card for income tax purposes.

MR. HOOKER: We offer a record of this call for identification, if your Honor please, October 27th.

THE COURT: All right.

MR. DALE: 159.

(Telephone company record referred to above was marked Government's Exhibit No. 159 for identification only.)

BY MR. HOOKER:

Q Do you have any recollection of what you talked to Mr. Dorfman about on that occasion?

A What was the date again, Mr. Hooker?

Q October 27th at 11 minutes after 10:00 o'clock.

MR. DALE: That's 159, your Honor.

THE COURT: All right.

A Yes, sir, I believe I informed Mr. Dorfman at that time that I had put my counsel to work on getting the information for the building properties I was interested in acquiring a loan for.

Q Put your counsel to work on it?

A That's right, sir.

Q Who was your counsel?

A Seldon McNear, Sr.

Q You think that is what this conversation was about?

A Well, I believe so, his son is here to testify and I think he will verify it.

11a-5

Q Was there any mention about the Hoffa jury?

A No, sir, I never had any discussions about the Hoffa jury with Mr. Dorfman, never had any occasion or no interest to have any discussions with him about it.

Q Well, I want to ask you in that connection, Mr. Tweel, about your testimony before the Grand Jury.

End 11a
12 fls

MR. SILETS: Your Honor, is Mr. Hooker going to read the Grand Jury transcript?

MR. HOOKER: Going to read question and answer.

MR. SILETS: May we have an objection to that? We have not received--

MR. HOOKER: (Interposing) I don't know what grounds his objection could be. As I understand it, it is proper cross examination.

MR. SILETS: May we examine it before he inquires?

MR. GRADY: Would be interesting to know whether he is taking it out of context or just one question and answer.

MR. BRANSTETTER: May it please the Court, if for no other reason other than to get equal treatment we would object because the Court refused to permit us to see the Grand Jury testimony of Partin.

THE COURT: Well, overrule the objection made by Mr. Branstetter. Mr. Silets' objection, overrule that objection.

BY MR. HOOKER:

Q I will ask you if you weren't asked about what else you talked to Mr. Dorfman about and if you didn't state in addition to that he asked me if I knew anybody in Nashville, Tennessee. I said I don't believe I know a soul down there. That is what I told him. He said you know we have a case coming up down there and you know we would like to know if any jurors would be friendly or unfriendly and not knowing

anybody down there I wouldn't know and I left him that day.

A Mr. Hooker the words friendly and unfriendly I'm certain that that is not part of that Grand Jury testimony and I would like to read it myself.

Q All right, I will pass it up and let you read it.

A Because I don't recollect making a statement like that.

MR. GRADY: This is what we objected to, Your Honor. If he would establish the date this was said, why, we would know a little more about it. Taking text out of context.

THE WITNESS: Where was this conversation? Where did it take place, Mr. Hooker? Without my reading the entire transcript?

BY MR. HOOKER:

Q That is your testimony before the grand jury.

A Is that a telephone conversation or is that while Mr. Dorfman and I were in Nashville together?

Q It is my understanding while you were in Nashville, Tennessee.

A Well, that's correct. I did testify in the courtroom--

MR. GRADY: (Interposing) If Your Honor please, that is what I objected to, this sort of trickery. If the record is followed it will show he is asking him about telephone conversation on the 27th and he tried to tell this

jury telephone conversation containing these statements.

MR. HOOKER: I did not.

THE WITNESS: That was a very tricky question in my opinion.

BY MR. HOOKER:

Q Sir?

MR. ALEXANDER: I think we ought to read the question back. I think Mr. Grady is exactly correct. Mr. Hooker is referring to telephone conversation and now he gets to personal conversation.

12-A MR. HOOKER: Let him read it back. We had so many charges about trickery here I think there ought to be some stop about it.

THE WITNESS: Mr. Hooker, I did testify--

THE COURT: (Interposing) Just a moment, Mr. Tweel, there has been a request to read the record back. Were you asking the reporter to read it back?

MR. HOOKER: Yes, sir.

THE COURT: All right.

(Thereupon, the reporter read back as follows:)

"MR. SILETS: Your Honor, is Mr. Hooker going to read the Grand Jury transcript?

"MR. HOOKER: Going to read question and answer.

"MR. SILETS: May we have an objection to that? We have not received--

"MR. HOOKER: I don't know what grounds his objection could be. As I understand it, it is proper cross examination.

"MR. SILETS: May we examine it before he inquires?

"MR. GRADY: Would be interesting to know whether he is taking it out of context or just one question and answer.

"MR. BRANSTETTER: May it please the Court, if for no other reason other than to get equal treatment we would object because the Court refused to permit us to see the Grand Jury testimony of Partin.

"THE COURT: Well, overrule the objection made by Mr. Branstetter. Mr. Silets' objection, overrulethat objection.

"BY MR. HOOKER:

"Q I will ask you if you weren't asked about what else you talked to Mr. Dorfman about and if you didn't state in addition to that he asked me if I knew anybody in Nashville, Tennessee. I said I don't believe I know a soul down there. That is what I told him. He said you know we have a case coming up down there and you know we would like to know if any jurors would be friendly or unfriendly and not knowing anybody down there I wouldn't know and I left him that day.

"A Mr. Hooker the words friendly or unfriendly I'm certain that that is not part of that Grand Jury testimony and I would like to read it myself.

"Q All right, I will pass it up and let you read it.

"A Because I don't recollect making a statement like that.

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"Q That is your testimony before the grand jury.

"A Is that a telephone conversation or is that while Mr. Dorfman and I were in Nashville together?

"Q It is my understanding while you were in Nashville, Tennessee.

"A Well, that's correct. I did testify in the courtroom--

"MR. GRADY: (Interposing) If Your Honor please, that is what I objected to, this sort of trickery. If the record is followed it will show he is asking him about telephone conversation on the 27th and he tried to tell this jury telephone conversation containing these statements.

"MR. HOOKER: I did not.

"THE WITNESS: That was a very tricky question in my opinion.

"BY MR. HOOKER:

"Q Sir?

"MR. ALEXANDER: I think we ought to read the question back. I think Mr. Grady is exactly correct. Mr. Hooker is referring to telephone conversation and now he gets to personal conversation."

THE COURT: Does that not correct it?

MR. BERKE: No, Your Honor, except Mr. Smith has the conversation of October 27th. That is what he asked him about.

THE COURT: Well, let's go back and resume your cross examination.

BY MR. HOOKER:

Q Mr. Tweel, did you make that statement before the Grand Jury or not?

A If the records so indicate and it is in the record I must have made it before the Grand Jury.

Q All right. Now, did you also--

A (Interposing) But like I say, that conversation as you say may have took place at Nashville where I testified that I was in the courtroom with Mr. Dorfman when I--

Q (Interposing) Let me ask you if approximately a week or ten days after your trip to Nashville, you told the FBI agents that you received a telephone call from Mr. Allen Dorfman who you believed to be in Chicago and that Dorfman asked you if you knew anybody on the Hoffa jury in Nashville

and you said you do not recall. You said you could not recall Dorfman reading any list of jury members but he may have, did you say that?

A No, sir, I don't believe I made that statement. I have no recollection of it.

Q To refresh your recollection, state whether or not your statements were made before Special Agents Francis W. Norwood, Franklin L. Johnson and William L. Sheets?

A Well, I signed no statement to those gentlemen so they could put anything they wanted in their record. Before the Grand Jury the court reporter takes notes under oath but before the government agents I signed no statement. They can make any statement they want to say I made. But I have no recollection of making that statement.

Q No recollection of it?

A No, sir.

Q I will ask you if you stated before the Grand Jury as follows, you were asked this question:

"Question: What I'm telling you, sir, is that the telephone records reflect that several minutes were consumed in this telephone call. I am asking you if at that time did you ask Mr. Hall or if at that time did you read to Mr. Hall the jury list?

"Answer: I don't recollect but I do know if there is anything pertaining to this trial that I probably told

Mr. Hall that I wasn't interested in it."

MR. SILETS: Your Honor--

MR. BRANSTETTER: (Interposing) May it please the Court, before this witness answers, I think that the law is rather clear that counsel cannot read a question and answer as such from the Grand Jury minutes or proceedings in this manner.

THE COURT: Can we get some authority, gentlemen?

MR. BRANSTETTER: I think we have handed in authority on it previously a number of times.

MR. SILETS: Your Honor, in addition I would like to add to that objection I think what Mr. Grady has suggested before as being the fallacy of Mr. Hooker's approach here one moment he is talking about Mr. Dorfman calling him and the next minute he is reading a quotation about a conversation with Dallas Hall. That is leaving an impression with me and I'm sure with the jurors it is the same conversation. And really he is not making it clear that it isn't the same thing that he was talking about with Mr. Dorfman. He is just pulling something out of context and suggesting that this is the same conversation.

MR. HOOKER: Same testimony before the Grand Jury at the same time.

MR. SILETS: Well, there is the testimony, it may be 200 pages, and which we have never seen and now Mr. Hooker

is first asking about a conversation with Mr. Dorfman then he comes back and tells the jury about a conversation with Mr. Hall and there is no instruction that it isn't a different conversation. It is terribly misleading.

MR. HAGGERTY: I would suggest, Your Honor, that Mr. Hooker be made to disclose dates and whether it is telephone conversation or if it is a personal conversation. The transcript must show that.

THE COURT: All right, let's try to make the questions as--

BY MR. HOOKER:

Q (Interposing) All right, Mr. Tweel, the date of the conversation that I asked you about with the FBI agents was February 4, 1963. And the date of your testimony before the Grand Jury was February 1, 1963. And I just want to ask you one other question about that.

A Mr. Hooker, can I interrupt you a moment?

Q Yes, sir.

A My testimony before the Grand Jury was February 1st. Then the February 4th date with the government agents is wrong because I left Nashville following my testimony before the Grand jury and I didn't have any interview with any government agents on February 4th.

Q Well, we'll show what that is. That it shows that it was on February 4th, Mr. Tweel.

A They were mistaken.

MR. SCHIFFER: Your Honor, then may we have the Grand Jury minutes turned over to defense counsel? Now we are having evidence purportedly appearing in the Grand Jury minutes. The witness denied them. We would like to see the Grand Jury transcript so we can follow this line of questioning.

End 12

Tk 13 fol.

MR. SILETS: As well as the FBI reports that Mr. Hooker is referring to.

THE WITNESS: Your Honor--

THE COURT: (Interposing) Just a moment.

MR. HOOKER: My attention is directed to the fact that this statement is--

MR. BERKE: (Interposing) Just a minute. I think we are entitled to have a ruling.

THE COURT: Overrule the question.

MR. HOOKER: Excuse me, I am sorry.

THE COURT: At this time.

MR. HOOKER: May I proceed?

THE COURT: Yes.

MR. SCHIFFER: Upon the basis of your Honor's ruling, may I respectfully interrupt to move on behalf of the Defendant Parks for a severance or a mistrial because the evidence and the questions being asked by Mr. Hooker at this time is certainly prejudicial to Mr. Parks to the extent that we do not now have the benefit and nothing is exhibited to us concerning the grand jury minutes or purported FBI reports to which Mr. Hooker continually refers, which are not identified, not put in the record, and we are in a position where we just do not know in which direction he is going and he is reading matter which must prove detrimental to my client's interest, at least he should show us the grand

jury minutes he is referring to and the FBI reports, your Honor.

THE COURT: Overrule the objection.

MR. BERKE: If your Honor please, we'd like to make another observation now. Mr. Hooker has read from or said that he had something about an FBI report of Mr. Tweel's. Of course, we have never seen it. We have requested it previously, all FBI reports, all Jencks statements.

He is now bringing out something on cross examination on something that the defense counsel has heretofore requested not once but many times.

Now, this seems to me, if your Honor please, to be a situation that is not clearly fair to the defendants. They have some hidden documents there, we don't have access to it. He can pick out a question and an answer from a certain page which, if taken together with previous--

THE COURT: (Interposing) Mr. Berke, is there any, is there any provision under the Jencks law or any other law that the government must deliver to the defense statements made by a defendant?

MR. BERKE: If your Honor please, we don't think it's proper cross examination for Mr. Hooker to state, "Now, we have a statement from an FBI report which says so-and-so and so-and-so," when we don't have access to that or the grand jury report either. It's not that they didn't give us

the statement but he is testifying, Mr. Hooker is in cross examination, that he has something which he doesn't show to the defense counsel that is the basis for our objection and we think that is improper.

THE COURT: Overrule the objection.

BY MR. HOOKER:

Q Mr. Tweel, I have examined this statement more carefully and you are apparently correct, it was February the first. Did you have the conversations that I referred to with these FBI agents that I have referred to on February 1, 1963?

A I testified previously that following my grand jury appearance Mr. Neal and Mr. Sheridan asked me if I would be kind enough to be interviewed by some government agents and I said, "Certainly, I will be glad to."

That was on February the 1st, that's the reason I called your attention to the fact that the February 4th date had to be wrong.

End Tk 13
Tk 13A fls.

Q But you deny the substance of the statement that I have read to you?

A You have to read that statement again, sir.

Q All right, all right. I will ask you if you didn't state that you met with Allen Dorfman in New York City during the summer of 1963 and they talked about the insurance business and talked about Tweel applying for a loan from the Teamsters pension fund. On that occasion Dorfman asked Tweel if he knew anybody in Nashville, Tennessee.

Did you say that?

A Sir, there must be some confusion between my talking to Mr. Dorfman personally and a telephone call before my appearance in Nashville because my telephone calls related only to what I discussed here before the Court and jury. When I saw him personally in Nashville before the court was the only discussion I can remember about the jury list or even talking about anything concerning the trial.

Q Well, do you deny that you told the FBI agents, the three that I have named, that you did talk to Dorfman about a loan from the Teamsters pension fund?

A No, I wouldn't deny that. I recollect that Mr. Dorfman had several institutions that he was acquainted with whereby he could arrange for a loan, I wouldn't deny that at all, no, sir.

Q Now --

MR. HAGGERTY: (Interposing) May it please the Court, I call your Honor's attention to this situation that has developed. Under the Jencks rule other defendants, now that he has taken the stand, are entitled to Jencks statements made by this witness, so, therefore, I demand of the government that we be given copies of the Jencks statements of this witness.

MR. HOOKER: We know of no such rule as that, your Honor.

THE COURT: Overruled.

BY MR. HOOKER:

Q Did you also state that you knew a boy named Buford Hicks who served in the United States Army with you who was from Nashville?

A I so testified to this Court and jury this morning.

Q Then did Dorfman say to you that the trial of Teamster President Hoffa was coming on and that he, Dorfman, would like to know what jurors might be prejudiced?

A I don't recollect that, he may have or he may not, that has been a year and a half ago, it would be hard for me to recollect.

Q You don't deny it?

A I would neither deny or would I neither affirm it, I can't recollect, sir.

Q Then did you also tell these same FBI agents that that evening that you had dinner alone at the Hermitage Hotel, the next day you saw Dorfman in the lobby of the Andrew Jackson Hotel and that you walked with Dorfman to the United States Courthouse and although he may have walked into the courtroom you didn't stay, is that correct?

A Part of that is true and part of it is untrue, they must have been confused, they were not taking any notes, to my knowledge, when I was interviewed by these agents, apparently they just chatted with me rather generally and I testified to the complete truth this morning.

Q Did you also tell them on this occasion that you believed that Dorfman handed you a list of the members of the Hoffa jury?

A No, sir, I testified here before this jury and Court this morning that it was to my best recollection that he showed me a list while we were in the courtroom and I scanned over it briefly.

Q Did you also tell him that you believed that Dorfman asked you if you knew any member of the jury and that you replied in the negative?

A I don't recollect that but, as I testified, I didn't know anybody anyway and I wasn't interested in the case at all.

Q Now, did you tell these same agents on this same

occasion that at approximately a week to ten days after your trip to Nashville that you received a telephone call from Allen Dorfman, who you believed to be in Chicago, and that Dorfman asked you if you knew anyone on the Hoffa trial jury in Nashville. You said you could not recall Dorfman reading the list of juror members but he may have?

A I don't recollect that at all.

Q You don't recall that?

A No, sir.

Q All right.

A I have testified that he never read me a jury list in my phone calls, Mr. Dorfman pertained only to our business matters, I have had no concern with the Nashville case whatsoever.

Q Never at any time?

A No, sir.

Q Then on October 28th I will ask you to state if you made a telephone call from your residence, or, rather, from a telephone in Huntington, West Virginia, from the JA 2 exchange to Dallas Hall?

A What was the exchange that the call was made from, sir?

Q JA 2?

A I mean what is the rest of the phone number?

Q At a phone in the JA 2 exchange, I don't have the

remaining numbers.

A I'd have to have the number because I believe that Miss Fulton and I reconstructed that call and I think that Mr. Hall called me and she returned the call and he was not in, could not be located. JA 2, I don't recollect that exchange.

Q What was your credit card at that time?

A My personal credit card is Jackson 3-0159.

Q Is that the same as 523-0159K34?

A Yes, sir, it is, sir.

Q Well, I hand you a record of a call here to Dallas Hall charged to that credit card on the date that I referred to, October 28th, 1962, and ask you if you made this call to Dallas Hall?

End 13a 14 fls

A What was the length of that call, Mr. Hooker?

A What was the length of time of that call?

Q Length of the call was 31 seconds.

A That is probably the call I just referred to.

MR. SILETS: Your Honor, did that have a number?

MR. HOOKER: For identification, Mr. Silets.

MR. SILETS: Well, your Honor, this has been our objection throughout the case that the government has had a number of documents which may or may not have been relevant and they have picked out a few piecemeal and put them in in their case in chief. Now, they want to bring in some more documents. I don't know how it is relevant to either his testimony or their case in chief. If it was important they should have brought it out in the first place in their case. Now, at this late stage they want to bring it out and for what reason I know not. It wasn't relevant. If it wasn't material to the government's case and it is certainly not now the proper time to develop it.

THE COURT: Overrule the objection.

MR. HAGGERTY: Your Honor, frankly, I am confused with this testimony for the reason that Mr. Hooker does not stick to one date. I would like to inquire, is this testimony that has gone in and he just speaks of talking or report to the FBI, is that confined to the report of February 4th?

MR. HOOKER: February 1st, I misstated the date, Mr. Haggerty. I corrected it later.

MR. HAGGERTY: All right, then, let's have the record straightened out. I don't quite understand it. The first information I got was February 4th. Then it jumped, it jumped to the other things. Now, I don't know what the record discloses but we certainly ought to have a clear record here, and we ought to--he ought to infer what he is examining from. Do I understand he is examining from February 1st?

MR. HOOKER: Yes, sir, FBI record erroneously referred to it as being dated February 4th and then when I saw the error, some time ago, I corrected it and asked Mr. Tweel on February 1st. That was the date of the conversation with the three agents that I named.

THE COURT: Well, let's proceed, gentlemen.

BY MR. HOOKER:

Q Did you make that call?

MR. SCHIFFER: Pardon me, Mr. Hooker. We feel we are now entitled to see the report whether it is February 4th or February 1st. This witness has now testified that there was not a conversation at all on February 4th. If, in fact, this report bears the date of February 4th then we believe the jury is entitled to see that document and we certainly feel that the defense is entitled to see the document as to whether it is dated February 1st or the 4th, your Honor.

THE COURT: Overrule the objection.

MR. ALEXANDER: Well, now, may it please the Court, is not the defense entitled to see the document that the government reads from in cross examination? Or could not the witness examine it?

THE COURT: Overrule that request. If you have any such authority, show it to the Court.

BY MR. HOOKER:

Q Did you make that call to Dallas Hall on October 28 at 3:44 P.M.? The time when you were in Huntington and he was in Nashville?

A Can I ask you, Mr. Hooker, from what telephone call, what telephone this call originated?

In my opinion, this call was made to Miss Fulton and Mr. Hall could not be located.

Q It was made from JA 2 exchange, you notice on the top charged to your credit card.

A Credit card. What exchange? That is important. I use my credit card on all my telephone calls, can you tell me who made this call? Did I receive a record of this call with the 1200 or 1400 calls that came in to me from you?

Q You should have.

A I didn't check them. I know when I testified before the grand jury I gave them this call and all other calls charged between myself and Mr. Hall.

Q Is it your answer you don't know whether you made that call or not?

A I testified Miss Fulton made this call and Mr. Hall couldn't be located.

Q You didn't make that call?

A No, sir, on a 31-second call you wouldn't have much to say to anybody.

Q You say a 31-second call you wouldn't have much to say to anybody?

A No, sir.

End Tk 14
Tk 14A fls.

MR. HOOKER: If your Honor please, we offer that for identification, that card.

THE CLERK: No. 160.

(Telephone record referred to above was marked for identification as Exhibit No. 160.)

BY MR. HOOKER:

Q I want to ask you on the same date, that is, October 28, at 11:46 p.m. at night, if you called from Huntington, West Virginia, at the American Cigarette Service, Incorporated, Edward Partin, at the office of Local No. 5 in Baton Rouge, Louisiana?

A If I called Mr. Partin it was pursuant to his calling and leaving a request to have me call him. And I recollect now that when I called his office in Baton Rouge they said he did not receive any calls there and if I would leave my name and number they would have him call me.

Q Do you know why we couldn't find any calls from Partin to you?

MR. SILETS: Objection, your Honor.

MR. ALEXANDER: I object to that.

THE COURT: Sustain the objection.

THE WITNESS: I imagine because after he testified --

MR. ALEXANDER: (Interposing) I objected. Don't answer the question.

THE COURT: Do not volunteer information.

BY MR. HOOKER:

Q Did you call Mr. Partin on October 28th, 11:46 p.m.?

A If the record showed that I called him, I called him. If the records show that the call initiated at Mayflower Distributors, Miss Fulton perhaps returned the call from him to me. I would have to know where the call originated from, otherwise I couldn't truthfully give an answer.

Q I ask you to look at this record of a call, this card, and the telephone bill is attached for the purposes of refreshing your recollection and state if you called on October 28th, at 11:46 p.m., to Mr. Edward Partin at the office of Local No. 5 in Baton Rouge, Louisiana.

A I must know, Mr. Hooker, from what phone this call originated from and the length of time of the call.

Q The call originated from the American Cigarette Service Company, Incorporated, and lasted for one minute.

A How can you tell it originated from the American Cigarette Service Company?

Q You received the bill there and the call, if you will look at the number from which the call was made on the bill, I think you will identify that as the number of the American Cigarette Service Company?

A The call lasted for one minute and in all probability Mr. Partin had phoned my office for me to call him and if I called his office he was not there.

Q And you don't recall any conversation you had with him about that time?

A No, sir, I don't recollect any conversation with him at all.

Q Well, --

MR. HOOKER: We will offer the record of this call for identification, if your Honor please.

THE COURT: All right.

THE CLERK: No. 161.

(Telephone records referred to above were marked for identification as Exhibit No. 161.)

BY MR. HOOKER:

Q I will ask you to state, Mr. Tweel, if on October 21 at 7:14 in the morning if Edward Partin called you from Nashville at the Andrew Jackson Hotel, you were at the American Cigarette Service Company, I guess an hour ahead of Nashville, are you not?

A Yes, we are, sir.

Q So that would be 7:14 in Nashville, it would be 8:14 in Huntington, West Virginia. Do you recall receiving that call?

A That call came into our office, station to station, my brother answered the telephone. And on that particular occasion, Mr. Partin told my brother he was trying to get in touch with me to get the name of an attorney. I was home at

that time. I do not get to my office before 9:30 in the morning. My brother told me about this call because he asked for Anthony Tweel, and I believe that will so show on the record.

Q And hand this to him, Mr. Sertel. This is a record of the call I referred to?

A Which further substantiates his efforts to get in touch with me. This call was made to Huntington, West Virginia. To Anthony Tweel. And my brother took this call and handled the call. I had nothing to do with this call at all. Station to station.

Q This was after -- was it after you made an effort two days before to call Mr. Partin?

A No. He had been calling me and this further substantiates the fact that he was calling me to have me call him. I hadn't spoken to him up to this time.

MR. HOOKER: We offer this record of this call for identification, if your Honor please.

THE CLERK: No. 162.

(Telephone company document referred to above was marked for identification Exhibit No. 162.)

BY MR. HOOKER:

Q I will ask you to state if on November 1, at 3:20 in the evening, Mr. Partin called you from the office of Local No. 5, called you at Huntington, West Virginia,

Mayflower Distributing Company, that was another one of your companies, was it not?

A No, sir, I testified, I had nothing to do with that company and I did not own a share of stock in it.

Q Well, were you frequently there?

A I testified to the jury the reason I was at this particular place during the last four months of 1962.

Q And did you have the conversation with Mr. Partin lasting one minute and thirty-seven seconds?

A I do not know, sir.

Q On that date, November 1st?

A I do not know, perhaps Miss Fulton took that call. I may not have been there on November 1st. I would have check my travel records. Was it station-to-station call, sir, or person-to-person?

Q Person to person to Nicholas Tweel.

A Well, if it was person to person, completed, I perhaps was there.

Q I show you this record and ask you if it refreshes your recollection?

MR. ALEXANDER: May it please the Court, Exhibit No. 134 which was just handed to me, let the record show that on this exhibit it states the call was taken by Mr. Tweel's brother.

THE WITNESS: Yes, sir. Mr. Hooker, I recall

that now. Mr. Partin in conversing with me at this particular time told me he had called me previous times to get hold of me and told me he had spoken to my brother and wanted the name of an attorney that I could recommend to him down in Louisiana.

BY MR. HOOKER:

Q Do you mean Mr. Partin was making all these telephone calls to you in Huntington, West Virginia, about getting him an attorney in Baton Rouge, Louisiana?

A That is the subject of the conversation because I don't even know how Mr. Partin got my number until I came to this trial and realized that he was perhaps trying to be overzealous in cooperating with the government and trying to establish some testimony for himself.

Q Are you sure the conversation was about an attorney in Baton Rouge, Louisiana, and not a jury in Nashville, Tennessee?

A No, sir. In fact, I can give you the name of the attorney if you want it. E. J. Boyle of New Orleans, Louisiana.

Q B. J. what?

A E. J. Boyle, (spelling) B-o-y-l-e, sir, of Louisiana, New Orleans, Louisiana.

Q Now, on November 16th I will ask you to state if you called from your private office of Edward Otis in New

d 14a
fls

York City, if you called Mr. Allen Dorfman?

THE COURT: Gentlemen, let's keep the record straight. Exhibit 162 for identification was October 31st, the last item was--

MR. HOOKER: (Interposing) November the 1st.

MR. DALE: That's the one that is marked 134, Your Honor.

THE COURT: Pardon?

MR. DALE: That has already been marked 134.

THE COURT: Exhibit 134.

MR. DALE: Yes, sir.

THE COURT: All right.

A What was the question again, Mr. Hooker, I am sorry?

Q I will ask you if on November the 16th, 1962, 3:26 p. m., if you called from the private office of Edward Otis in New York to Mr. Dorfman in Chicago at his office and talked to him for three minutes five seconds?

A Well, I would have to check my telephone records. In all probability I did, if my records indicate that I did because I testified that I spoke to Mr. Dorfman on a dozen occasions during that period.

Q I hand you the record of that call and if this refreshes your recollection?

A All of these calls I submitted myself voluntarily to the Grand Jury in Nashville, Tennessee.

MR. ALEXANDER: If it please Your Honor, I'm going to object to these typed, whatever they are, that are attached to these cards. I don't know how to read an IBM card, I don't know whether this thing is correct or not, this is something the government prepared. If they want to introduce the cards in evidence we have no objection but I don't want their interpretation put on them.

THE COURT: Well.

MR. ALEXANDER: If Mr. Hooker wants to refer to it he can but not introduce it attached to these exhibits.

THE COURT: Being introduced, as I understand, for identification purposes only.

MR. GRADY: Identification only.

THE COURT: Are you referring to the November 16th date.

MR. HOOKER: November 16th at 3:26 p. m.

THE COURT: Is that offered for identification?

MR. HOOKER: Call from Nicholas Tweel to Allen Dorfman.

THE COURT: Just a minute.

MR. HOOKER: Yousay--

THE COURT: (Interposing) Just a minute, let's keep the record straight.

MR. DALE: He has got one there supposed to be 162.

MR. HOOKER: I'd like for him to examine this and see if it refreshes his recollection and offer it for identification.

A I think I have already examined that, Mr. Hooker.

Q I thought you had.

A The second one.

MR. DALE: We haven't given it a number.

MR. HOOKER: All right.

MR. DALE: This is 162, Your Honor.

THE COURT: All right.

BY MR. HOOKER:

Q Then the November 16th card. Do you know what that call was about?

MR. ALEXANDER: Just a moment.

THE COURT: Just a moment, Mr. Hooker.

MR. HOOKER: I am sorry.

MR. ALEXANDER: I think there is some confusion about this. I am looking at Exhibit No. 134 which says it's admitted in evidence and yet it has this explanation written by somebody on it. I object to that going with these cards.

THE COURT: Let the Court see the exhibit.

MR. HOOKER: We don't have any objection to taking it off.

MR. GRADY: I'd like to know, if Your Honor please, how an exhibit that was put in evidence was obtained for the

government to attach written memoranda to it and then produced back in the Court to be seen by the jury, I'd like the record to show that happened.

THE COURT: Overruled.

MR. GRADY: We object very strenuously to those tactics.

THE COURT: Remove the note and return it to government counsel.

MR. SAULPAW: 162 here is the one dated November the 1st, 1962.

THE COURT: Ask him what Exhibit 162 for identification is.

MR. HOOKER: Sir?

THE COURT: I asked what Exhibit 162 for identification was.

MR. HOOKER: This is a call, if Your Honor please, if I understand--, do you have the slip that was with it?

MR. SILETS: May I point out even Mr. Hooker needs the slip to understand what that is all about.

MR. ALEXANDER: These calls took place a year or year and a half ago, Mr. Hooker can't remember after just reading the slip what they are.

MR. HOOKER: Not a question of not remembering, if Your Honor please, it's just a question of being able to identify this particular ticket with accuracy.

THE COURT: Well.

MR. GRADY: Your Honor, let the record show that if such a thing in fact happened, the best of my recollection it did, that one of the exhibits here which has been properly identified by Southern Bell and put--, or Illinois Bell or whatever bell it was, put in evidence has been altered by attaching some sort of explanatory memoranda to it. I would like the record to show that that sort of thing happened.

THE COURT: That has been removed from the exhibit. Overruled.

MR. GRADY: I didn't know when or how.

MR. HOOKER: I think that is the call of November 1st, if Your Honor please.

MR. DALE: That's right, November the 1st.

THE COURT: It's a question of straightening out the exhibit numbers, gentlemen. Exhibit No. 162 was introduced for identification as October 31st call, Exhibit 134, which has been previously introduced was introduced as the November 1st call, Exhibit No. 163 was identified as the November 16th.

MR. SILETS: Your Honor, my notes don't disclose anything about October the 31st at all and I have November 16th at 152 and November 1st 134, October 28th is 161, nothing about October 31st.

MR. HOOKER: If Your Honor please, I asked about a call of October 31st, I think it had already previously been

marked.

MR. DALE: 134.

MR. HOOKER: 139.

MR. NEAL: 134.

MR. DALE: 134.

MR. SILETS: Your Honor, my notes show Mr. Hooker read that as November the 1st at 3:20 p. m.

THE COURT: Well, the difficulty, gentlemen, is created, Mr. Hooker, by your proceeding on to the examination of something else while counsel are examining these cards and before the clerk can get the cards marked for identification. If you would take up one card at a time and get it marked for identification before proceeding to another card we can avoid this problem.

MR. HOOKER: All right, sir, I will try to avoid that.

BY MR. HOOKER:

Q Now, Mr. Tweel, I want to ask you if you received a call from Edward Partin in the Andrew Jackson Hotel to Mayflower Distributing Company on November the 27th at 3:40 p. m? You were at the Mayflower Distributing Company, this record of this call has already been filed and admitted as Exhibit 135. I will hand you this and ask you if it refreshes your recollection?

A What is the length of the time of that call, Mr.

Hooker?

Q The length of time was 3 minutes and 37 seconds.

A Mr. Partin was calling me, right?

Q Mr. Partin called you.

A Well, of course, I can't decipher these cards. If you had that little memoranda like you have been giving me I could tell you more about it.

Q Well, they object to you having the memoranda and I took it off now so I will now give it back to you.

A I mean I just have to go by the government memoranda, I am not able to interpret one of these cards.

MR. SCHIFFER: On behalf of the Defendant Parks we object to any memoranda being shown to the witness.

THE COURT: All right.

MR. SCHIFFER: Mr. Hooker identifies something from a paper which is not in evidence and so far as Mr. Parks is concerned we certainly strenuously object to anything being shown to this witness which is not a part of the record of what has been admitted in evidence.

MR. GRADY: Here is our point, Your Honor, we don't think there is any controversy in the testimony but they know the proper way of proving these exhibits by the phone company and we object to them making little notes on them and passing them around. Let them prove it in the proper way, that's all.

A Well, honestly, Mr. Hooker, for me to really

determine this card I would have to have a phone company official here to explain the code in which they determine these cards.

Q Is your answer that you don't recall that telephone conversation with Mr. Partin?

A I did not say I didn't recall. You asked me to explain that card.

Q I did not, I just handed you that for the purpose of refreshing your recollection, if it did, and asked you the question if you had the telephone conversation with Mr. Partin.

15A

A If the record shows that he called me, I don't know whether Miss Fulton received this call, whether it was station to station or person to person. Was this a station to station or person to person call, sir?

Q Hand me the card back and I think I can tell you. I think it was a person to person.

MR. ALEXANDER: What is the date of that card, do you remember?

MR. HOOKER: Person to person, November the 27th.

MR. ALEXANDER: What year?

MR. HOOKER: 1962.

THE COURT: The note attached to that exhibit will be returned to the government and the objection to those notes being introduced will be sustained.

End 15

Tk 16 fol.

Q Do you remember that telephone conversation, Mr. Tweel?

A Sir, if it was a person to person call I spoke with the man. If it wasn't a person to person call Miss Fulton took the call.

Q Do you remember what the conversation was about?

A I didn't say there was any conversation. It was a person to person call, if it was, I may have spoken with him. If if was station to station call, they apparently took the number and he instructed her to have me call him at a later date probably.

Q All right. Now, I want to ask you if you received a telephone call from Mr. Allen Dorfman at Nashville, to you, at the Mayflower Distributing Company, 7:47 P.M. on November 27th?

A I testified that I did receive the call to my knowledge. To the best of my knowledge, and his telephone records will have to indicate that he made the call.

Q The time is 7:57? I stated it incorrectly. And this was made billed to credit card and made person to person to you and I pass to you the records of the call. It has already been filed as Exhibit No. 57.

A Was that Mr. Dorfman's card, Mr. Hooker?

Q That is Mr. Dorfman.

A Well, I couldn't decipher this card either. I

would have to let Mr. Dorfman explain this card. You say he called me?

Q Did you get a call from him on or about that time 7:57?

A Yes, sir, I testified I did, sir.

Q Now, then, did you get another telephone call from him about 20 minutes later, the same night, from 8:10 P.M., from Nashville, Tennessee, call you at the Mayflower Distributing Company?

A I testified that he called me. There was a bad connection. Miss Fulton took the call. He said he would call me back later, which he did. And I accepted the call.

Q I show you Exhibit No. 56 as representing a record of that call. He did call you again that night?

A I testified that he did, sir.

Q Why did he call within 15 to 20 minutes apart that same night, Mr. Tweel?

A He had a bad connection on the first call. I think the telephone record will so indicate and he called 15 or 20 minutes later.

Q And he did call you? Did he read the jury list to you?

A No, sir, he didn't. I testified already in all my conversations with Mr. Dorfman on the telephone concerned nothing but my insurance companies and the loans I was

interested in getting on these properties.

Q Well, when he made the two calls to you that night, was Miss Hazel Fulton present at your office?

A Yes, sir, she was, sir.

Q Do you have a telephone connection on both of these desks in that office?

A Yes, sir, it was two telephones on those desks. Her office, not my office.

Q In other words, one person is able to pick up a telephone on one desk and another one on another and hear the same conversation?

A Yes, sir, the telephones are only about three or four feet apart.

Q Did you have her get on the extension phone that night?

A No, sir, I did not. She has never handled any of my calls outside of just announcing the call to me and I accepting the call, sir.

Q Do you deny that she answered the phone?

A I don't deny that she answered the phone. She answered the phone and told me who was calling.

Q And then you say she got off the phone?

A Yes, sir, she gave the call to me to handle.

Q Do you deny to these ladies and gentlemen of the jury that you told her to take down the names?

A I absolutely do. She did not take down any names whatsoever.

Q Do you deny after that you asked her to transcribe her notes?

A That is not true.

Q Do you deny that you told her to transcribe them on plain paper instead of on the company's stationery?

A Sir, that is not true. I would have no reason of making such a memorandum of such a nature.

Q Do you deny that you had her to make three copies of this list and you took all three copies?

A Mr. Hooker, her whole testimony is wholly unfounded and has no factual foundation whatsoever.

Q And that conversation had nothing whatever to do with the jury list?

A Absolutely not.

Q What was it about then?

A It was about these insurance matters. And about the building properties I was interested in and I will have several witnesses to substantiate my testimony, sir.

Q Do you mean that Mr. Dorfman was calling you that night, twice in succession, one at 7:57 P.M., and again 8:10 P.M., about this building proposition?

MR. SILETS: Your Honor, this is--

MR. HAGGERTY: (Interposing) This is entirely

another matter, your Honor.

THE WITNESS: Your Honor, Mr. Hooker, I explained--

MR. ALEXANDER: (Interposing) Just a minute.

THE COURT: Overrule the objection.

MR. SCHIFFER: Your Honor, then I object on the grounds Mr. Hooker has deliberately misstated the testimony of this witness. He said that the first call didn't go through because of a bad connection. Then the second call took place 13 minutes later.

THE WITNESS: That is exactly what I was going to inform Mr. Hooker.

MR. SCHIFFER: Mr. Hooker is deliberately misquoting the record.

THE WITNESS: Mr. Hooker, I have testified already about five different times that the first time there was a bad connection and he proceeded to call back later which he so did.

BY MR. HOOKER:

Q The call went through and Mr. Dorfman got you on the line the first call?

A No, I don't believe I was on the first call. Miss Fulton said there was a bad connection.

Q Oh, Miss Fulton answered that one?

A She answered both calls, sir.

Q On the telephone extension?

A She answered both telephone calls from Mr. Dorfman. In fact, she answered all telephone calls.

Q You are saying she said there was a bad connection, and hung up, and called back?

A That is correct. Took the call, turned the phone over to me when found out it was Mr. Dorfman.

Q And these successive, two successive phone calls that night were still about that loan?

A Yes, sir.

MR. SCHIFFER: Objected to, your Honor, again he is misquoting the evidence. The first call never took place. It was a bad connection.

THE COURT: Overrule your objection.

THE WITNESS: There was only one call, one conversation with Mr. Dorfman.

BY MR. HOOKER:

Q And had nothing to do with the jury situation in Nashville?

A Absolutely not. I don't know what I could do about a jury situation for a man down in Nashville, Tennessee, from Huntington, West Virginia.

Q The Hoffa trial was still going on?

A I assume it was.

End Tk 16
Tk 16A fls.

Q Now, I want to ask you if that same night at 9:43 p.m., as shown by Exhibit No. 71, whose number is 255-8245?

A That is Miss Fulton's number, sir.

Q Sir?

A That is Miss Fulton's number.

Q Miss Fulton's number?

A That's right. That is Mayflower Distributors' number.

Q Mayflower Distributors?

A Yes, sir.

Q Were you there that night and still there that night at 9:43?

A I believe I was, sir.

Q Sir?

A I believe I was, sir.

Q You were and I show you this Exhibit No. 71 and ask you that this night, same night, where you had the bad connection and then the conversation with Dorfman, if you made a call to Dallas Hall?

A Again, Mr. Hooker, I cannot interpret this card but if the record states that that office or Miss Fulton made a call to Dallas Hall she was returning a call that he had made prior to that, either him or Mr. Partin. I don't know what link there is between Mr. Partin and Mr. Hall, but

apparently must be some link from the way you all have arranged these telephone records of some sort.

Q Well, did you talk to Dallas Hall that night?

A I do not know whether I did or not. If I did, I couldn't remember whether I did.

Q Well, do you deny that you did?

A I would not deny that I did, no, sir.

Q Did you talk to him about the jury list that you just had gotten from Mr. Dorfman?

A Mr. Hooker, Miss Fulton testified that she never heard me read a jury list over the telephone and you and I both agreed that the telephones were three feet apart. So if I read a list to Mr. Hall on the telephone, certainly Miss Fulton must have heard me and she testified she never heard me read a list to anybody on the telephone.

Q Well, I don't agree about the phones being three feet apart. I never was there, Mr. Tweel. Never saw them.

A You were just describing the telephones.

Q I asked you if they were on two tables there.

A And I have a photograph coming in, Mr. Hooker, to substantiate my testimony which should be in the possession of the attorney. I don't know why he doesn't have it right now.

Q And you don't deny that you did talk to Dallas Hall that night?

A I don't deny that, sir.

Q Now, then, I will ask you to state if on the next day, November 28, 1962, at 11:26 p.m., at night, if you called, made a call to Dallas Hall at the Sportsman's Bar as reflected here on this Exhibit No. 73, a call from 255-8245, you say that is --

A (Interposing) 255-8245? I never heard of a number like that, sir.

Q I thought you identified that, gave the number a few minutes ago, of being the Mayflower Distributors?

A No, sir, they have a different number entirely, sir.

Q Well, do you know whose number that is?

A I do not, sir.

Q Well, did you have a conversation on November 28 at 11:26 that night with Mr. Dallas Hall?

A It would be very difficult for me to recollect. If the phone records would so indicate, I couldn't deny it. But I don't recollect any conversation with him.

MR. HOOKER: Would your Honor indulge me just a moment?

MR. SCHIFFER: I would like the record to indicate, your Honor, that both Mr. Neal and Mr. Hooker are conferring about telephone records, the very things they have been putting in evidence, and that they themselves cannot

decide what appears on the face of these records.

MR. HOOKER: No, I want to get it straight. Want to be fair about it.

BY MR. HOOKER:

Q I am not certain about that. Going to pass on to something else until I can get it accurate, Mr. Tweel.

A I'm not certain about any of them, Mr. Hooker. I took it for granted the telephone company presented these cards.

Q Did you get a call on November 29, at 8:58 a.m., that is in the morning, from Allen Dorfman at the Andrew Jackson Hotel to you at the American Cigarette Service Company?

16a fls

A I may have, sir, I cannot recollect the call.

Q Well, hand you a record here showing a call from Dorfman to Tweel on that day which has already been filed as Government Exhibit No. 58 to refresh your recollection and ask you if you have seen that call?

A This is a call Mr. Dorfman made to me?

Q A call Mr. Dorfman made to you, yes.

A Was this call station to station or person to person, sir?

Q That's Mr. Allen Dorfman, person to person, 8:58 a. m. from Nashville to you at Huntington, West Virginia.

MR. SILETS: I didn't get the time. Was that before nine o'clock in the morning, Mr. Hooker?

MR. HOOKER: 8:58 a. m.

MR. SILETS: 8:58 a. m.

A How can you tell these calls are from Nashville? Just a matter of curiosity?

Q Well, did you see Mr. Dorfman's name on there as being the calling party?

A I see Mr. Dorfman but I don't see any--

Q (Interposing) Do you see your name above there?

A I see my name but how do you know these calls came from Nashville?

Q Well, it shows the number there at the top. Do you remember the call, Mr. Tweel?

A I have no recollection. I called and spoke with Mr. Dorfman on at least a dozen occasions in the Fall of 1962.

Q Do you know what you were calling him about on that occasion?

A Again, Mr. Hooker, I have testified several times to the jury and the Court that my only business relationship with Mr. Dorfman was the insurance matters and the building properties in which my associates and I were interested in arranging a loan for.

Q All right. That has already been identified, I believe, Mr. Sertel. Now, this call that I asked you about a few moments ago as having been made at 11:29 p. m. on the night of November the 28th from your residence to Dallas Hall and being made from 525-5309 in Huntington, that is your residence, isn't it?

A Yes, sir, that call could have been charged to my residence or my credit card.

Q Do you recall whether or not you made that call?

A No, sir, I don't recall.

Q Do you deny it?

A I neither deny it nor do I affirm it.

Q All right. That card is already in evidence as Government's Exhibit No. 73. Now, Mr. Tweel, I want to ask if you made a telephone call at 11:58. Just a moment.

THE COURT: Well, gentlemen, it's time for the

noon recess. Ladies and gentlemen of the jury, observe the usual instructions, do not discuss the case, allow anyone to talk with you. You may be excused and kindly be back at 1:30.

THE MARSHAL: Court is still in session. Let's be quiet, please.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

THE COURT: Now, Mr. Tweel, during the period of time that you are off the witness stand do not discuss your testimony or allow anyone to talk with you about your testimony.

THE WITNESS: I will observe that, sir.

THE COURT: All right. You may step down, sir.

THE WITNESS: Thank you, sir.

THE COURT: Mr. Dale, are the exhibits straightened out?

MR. SAULPAW: It might be well.

MR. ALEXANDER: May it please Your Honor, for the sake of the record, I would like to take an exception. This is a defendant and you have instructed him not to talk to his counsel about his testimony, do I understand the ruling?

THE COURT: Is there any authority whereby any witness during the course of his examination is permitted to discuss--

MR. NEAL: (Interposing) Your Honor, we think he should be able to talk to his counsel.

THE COURT: All right, all right.

MR. ALEXANDER: Certainly he should be able to talk.

MR. NEAL: But only to his counsel, Your Honor.

THE COURT: Gentlemen, let's straighten out the exhibits. Now, Mr. Dale, do you have the exhibits?

MR. DALE: 161 is 10-29-62, Baton Rouge.

MR. SAULPAW: 161.

MR. DALE: 161.

MR. SILETS: May we start all over again, Your Honor?

THE COURT: Let's straighten out the exhibits, gentlemen. The Court records indicates that exhibit No. 160 offered for identification was a record in regard to a telephone call on October 28th, 1962.

MR. DALE: Right, Your Honor.

THE COURT: For 31 seconds.

MR. NEAL: That's right.

THE COURT: Is that correct?

MR. NEAL: That is correct.

MR.SILETS: Is that 3:44 p. m?

MR. NEAL: 4:44.

MR. HOOKER: What is the date?

THE COURT: Identified as October 28th, 1962. Exhibit No. 161 admitted for identification was identified as a telephone call October the 28th at 11:46 p. m. in regard to a call to a local number 5 in Baton Rouge, Mr. Partin.

MR. DALE: Right.

MR. HOOKER: October 28th and 29th, Your Honor, depending on which time zone you are in that is involved.

THE COURT: All right. And Exhibit No. 162 offered for identification was a record of the phone call on October the 31st at 7:14 a. m.

MR. DALE: That is where we are wrong, we are mixed up.

MR. HOOKER: That's 134, already been in.

MR. DALE: Already been introduced.

THE COURT: That's Exhibit No. 134?

MR. HOOKER: Right.

THE COURT: All right. Then the next card, telephone record, is November the 1st at 3:20 p. m.

MR. DALE: That's 162.

THE COURT: Exhibit No. 162?

MR. NEAL: That's right, Your Honor.

MR. HOOKER: Yes.

MR. DALE: Yes.

MR. NEAL: To Huntington.

THE COURT: Well, from Mr. Partin to Huntington.

Then Exhibit No. 163 identified as a phone record dated November the 16th at 3:26 p. m.

MR. DALE: That's already--

MR. SILETS: (Interposing) 135.

THE COURT: 56,73 and 58 were later used in connection with cross examination.

MR. SILETS: Your Honor, may I ask the--

MR. HOOKER: (Interposing) Was 56 the last one, please?

THE COURT: 56, 73 and 58 were all referred to in the cross examination, No. 58 being the last exhibit referred to in the cross examination.

MR. SILETS: Now, Your Honor, may I ask the government if they will allow me to look at the hotel records of Mr. Dorfman and any travel records that they may have? I was permitted to view the many thousands of records that they had of all of the defendants on the Saturday before trial and my records, my notes, do not disclose any hotel records that they have of Mr. Dorfman or any travel records and I just want to ask them if they have any so that I may view them prior to the time I call my defendant to the stand.

End 17

Tk 18 fol.

THE COURT: All right, we will have them advise the Court then after 1:30.

MR. NEAL: Your Honor, we turned over the hotel records to be copied.

MR. SILETS: Well, your Honor, as I say, I have not seen them.

MR. NEAL: Well, look at what you copied.

MR. SILETS: Is it the government's position that he will not allow me to look at the originals? Is that what the government's position is, your Honor?

THE COURT: Well, the Court cannot state anybody's position in this case.

MR. SILETS: Your Honor, I don't want to direct my question to them directly, I would rather state it through the Court as the proper procedure requires.

THE COURT: Have all records in this regard been made available to the defendants?

MR. NEAL: Yes, your Honor.

MR. SILETS: Your Honor, I'm asking the Court's indulgence so that I may see the originals. I have looked through the photo copies and I do not find any hotel records for Mr. Dorfman and I want to know if there are such records in the possession of the government, as well as airline records, I would like to see them.

THE COURT: All right. Well, the government can

state to the Court its position in that regard at 1:30 when we resume at that time.

MR. BRANSTETTER: May it please the Court, the problem connected with that is that some of the records that they turned over to us truly would not photostat properly and they are not readable. If the government has the original copies of these records, that they have taken from the defendants, certainly the defendants are entitled to observe the original records.

MR. NEAL: We don't have anything we took from these defendants.

MR. BRANSTETTER: We cannot read them from the photostats. I have tried it.

MR. NEAL: We don't have anything we took from the defendants.

MR. BRANSTETTER: Under the process, though, you lifted them to where the defendants could not get them from the hotel.

MR. NEAL: If they can't read theirs and they will tell us what they want, we will make them available again.

MR. SILETS: Make any records, specifically, I would like to see the hotel records of Mr. Dorfman, his travel records, that is, what I'm asking the government of Mr. Dorfman, just one man.

MR. REDDY: Travel records?

MR. SILETS: If they have travel records, you know, airline tickets, anything of that sort, this is what I would like to see, your Honor.

THE COURT: All right, let's adjourn court until 1:30.

(Thereupon, at 12:07 p.m., court was adjourned for the noon recess until 1:30 o'clock, p.m.)

End 18
19 fls

AFTERNOON SESSION

1:30 O'Clock P.M.
February 17, 1964

(Thereupon, pursuant to adjournment for the noon recess, court was in session.)

(The jury of 12 and 4 alternates remained excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

THE COURT: Yes, Mr. Silets.

MR. SILETS: Your Honor, pursuant to your Honor's indulgence and my request of the government to see the original hotel bills and travel records of the Defendant Dorfman which are in their possession, I came to the office of the United States Attorney to talk to Mr. Neal and Mr. Durkin around 1:10 so that I could see them before court resumed.

I received no satisfaction whatsoever from the government. Mr. Neal informed me I had the opportunity to examine these records once before and the implication was that I couldn't examine them again.

Now, your Honor, I, as an officer of the court, I make this representation, when those records were photo copied I went through them, I never found any hotel records--I shouldn't say any, I found one or two hotel records of Mr. Dorfman, no travel record, no airline record of Mr. Dorfman.

The photostats we have are not in the best condition. I merely asked the Court to use the offices of the Court so that we may--so that I may see this precise set of documents. If the government has his hotel bills what difference does it make whether I see them again? I just want to review them for a very short time. I am not going to eat them, I am not going to destroy them. I can see them in the presence of the government, if they are concerned about that, and I ask your Honor to intercede so that at least I have that opportunity, even if it is for a few moments.

THE COURT: All right. What does the government have to say to that?

MR. NEAL: Well, your Honor, I have been through this before. They just wear you down with requests for these records. You show them the records then the photostats are not any good and they come back. It's a process of--it's a process of just wearing you down by requests for records.

Now, we turned over all hotel records we had. As I pointed out, and as the official files of this court will show, last August of 1963 I sent counsel for each defendant a letter stating, "We have the records ready. Please look at them. Look at them whenever you all are available." They responded on January the 18th, two days before the start of the trial, with a big photostating operation here in the courtroom. They saw the hotel records.

Now, we have no objection and I told Mr. Silets--

THE COURT: (Interposing) Have you made available the records to the extent that you have them?

MR. NEAL: We made the hotel records available to the extent we have them. The only travel records we have of the Defendant Dorfman are photostatic copies sent to us by the airlines. The airlines kept the original records and they are still available, as far as I know, at the airlines, available to be subpoenaed by the Defendant Dorfman or his attorney, Mr. Harvey Silets.

We have photostatic copies of various travel records of the Defendant Dorfman. Now, when this is the situation where the records are available to the defendant as the result of the issuance of a subpoena the law requires them to issue a subpoena and get them.

Now, as for the hotel records, we have shown them all of the hotel records we have. I told Mr. Silets at noon that I will ask Mr. Durkin to look for them, get them out when he has a moment and give them to him and Mr. Silets kept saying, "So you are denying the Court's order?"

I said, "Mr. Silets, I am not denying or I am not refusing to obey the Court's order. I am telling you in your presence I am asking Mr. Durkin to get the hotel records out and get them out for you again."

He asked for the travel records. As to the

travel records we have not turned them over, we have photostats, as far as we know the originals are in the possession of the airline company. They should be subpoenaed.

MR. SILETS: Your Honor, may I say this, I am utterly amazed at this because this is the approach that the government, Mr. Neal, I shouldn't say the government, Mr. Neal has taken an approach which is similar to that of a game, a sporting event. This isn't a game or a sporting event. The fact that these records were turned over once, and I readily admit that all of the records that they say that they have said that they turned over to us, I am only asking for their indulgence to see the originals. This is not such a terrible event, so hair raising to the government that they can't spend five minutes with me and allow me to look at these documents. I can't understand their attitude. It's a sporting event, it's a game of jousting, it's not that, it's a man's liberty and Mr. Neal has the responsibility, not only to the government but to Mr. Dorfman, too, to make sure that he has a fair trial.

End Tk 19
Tk 20 fls

MR. NEAL: I say again, your Honor, we will endeavor to get the hotel records offered for submission, but I do point out when you get these records back from these people they are in such shape you have a hard time --

MR. SILETS: (Interposing) I'm not going to stand for that.

THE COURT: Let's don't argue the matter further, gentlemen. If the records have been made available once that should have sufficed. I don't know how many times you are supposed to make them available. Let's move along.

MR. HAGGERTY: May it please the Court, I have a matter.

THE COURT: All right. Yes, Mr. Haggerty.

MR. HAGGERTY: Your Honor, it has to do with a motion to suppress evidence and for an immediate hearing, the motion and memoranda accompanying it was filed this morning. Later on in the morning a memorandum in support of the motion to suppress backed up by authorities was also filed with your Honor. I say to your Honor in the utmost good faith in the language that I have employed this time is not meant out of disrespect for the Court, but I say to your Honor, that I believe that your Honor has confused procedure with constitutional rights.

I have always been taught and believed that the Supreme Court's decision is the law of the land. It applies

throughout the United States or should. Particularly in our federal system. Now we have presented, your Honor, the case of Elkins versus United States, 364 U. S. 206 which in no unambiguous or uncertain language the Supreme Court has stated that the rule respecting of a motion to suppress, speaking of a motion to suppress, to prevent is calculated to prevent, not to repair its purpose to deter. I say it is your Honor's duty at this time to give a ruling on this motion and that should be forthwith so I urgently request that your Honor give us a ruling at this time.

Now, this motion is not based on fancy. I will read from the transcript of Friday.

"MR. NEAL: May it please the Court, before the jury comes in I have just remembered with respect to the recordings, those were turned over to the Court."

He states recordings were turned over to the Court.

"I believe, I had forgotten, and perhaps the Court had forgotten.

"THE COURT: The Court hadn't forgotten anything.

"MR. NEAL: Sorry, I had forgotten it. They had been turned over, had been ruled on by the Court. Turned over with all other matters for determination in connection with Jencks statements and we will file a response. I had forgotten that we had turned them over."

Mr. Berke interrupts and says, "Are you talking

about the telephone recordings?"

Mr. Neal says: "Yes, sir."

"MR. BERKE: If your Honor please, this is the first we had heard of it. And we certainly want to challenge that. I think the Court should state, I doubt that the Court has ever seen any telephone recordings."

The Court replied on page 5159, "I have been reading consecutive pages.

"THE COURT: All Jencks statements that were turned over to the Court were either made available to the defendants as the Court determined them to be available under the Jencks Act or they were filed as sealed exhibits. And they are in the record. Everything that has been turned over to the Court is in the record. And has been made available by the Court to the extent that the Court deemed it to be available and has been sealed to the extent that the Court determined it was not available.

"MR. BERKE: We are challenging Mr. Neal's statement that the recordings have been filed with the Court. I understood the Court to say that you have not seen any telephone recordings.

"THE COURT: I stated that everything that has been turned over to the Court has been available to the defendants that was available in the Court's understanding of the law, everything that was not available has been sealed and

is a sealed exhibit in the case."

Therefore, your Honor did not admit nor deny that some recordings or the transcription of those recordings had been turned over to you. Now, if there are telephone recordings, your Honor, we are getting into the area not a gray area, but a distinct red area, a red area of danger, and that if there are telephone tappings made here, tappings of telephones, then our motion is based on the record for the time-being and on the testimony of witnesses that can be produced so I say most sincerely to your Honor, we are entitled to a hearing on this matter and entitled to it now.

THE COURT: All right.

MR. NEAL: Your Honor, may I answer that briefly? Might shorten matters.

THE COURT: All right, Mr. Neal.

MR. NEAL: We have now submitted an answer. The only question raised with respect to alleged wiretapping concerning two telephone conversations between the Witness Partin and the Witness Hoffa, in October 1962. The defendants used that as their prima facie showing on which they based the request for a hearing with respect to this matter.

The Supreme Court has held in the second Nardone case, Nardone versus United States, Supreme Court held in the United States versus Lawn that it is not every motion, particularly this in these two cases, motions to suppress evidence

based on wiretapping, in the second Nardone case, and in the Lawn case motion to suppress because of matters improperly before the Grand Jury, it is not in every case a request for a hearing is the Court required to indulge the defendants in a hearing.

They must make a prima facie showing that there has been some illegally obtained evidence. In this case wiretapping. Before they are entitled to the Court's indulgence to call witnesses and examine them.

We have submitted now our memorandum in opposition to the --, our memorandum with respect to the wiretapping allegations.

And with respect to the production of these under the Jencks Act we have attached thereto affidavits from the Witness Partin and affidavits of Mr. Daniels. These affidavits are unambiguous. They are unimpeached. They state that the recordings were made with the consent of Mr. Partin who was the sender in each case. They were recorded conversations made of telephone conversations by the sender of the conversations, the Witness Partin, made with his consent. And have been submitted to the Court.

There is nothing in the record to impeach this or to require the Court to go into a hearing on the matter. I have seen nothing whatever, your Honor, that would require this Court under the second Nardone case and under the United States

versus Lawn to require the Court to have a hearing based on the affidavits now in the record.

End 20
21 fls

MR. HAGGERTY: May it please the Court, Mr. Neal, if I understand correctly, it stated that you have filed such an answer or a reply.

MR. NEAL: I have.

MR. HAGGERTY: Where is it?

MR. NEAL: Mr. Berke has it.

MR. BERKE: While you were out.

MR. HAGGERTY: I call to Your Honor's attention on telephone communications it is the law that if one consents to a wiretapping on the sending end, Mr. Hoffa was on the receiving end according to the testimony of Partin, the law requires that there be some sort of an electronic device or mechanical equipment that provides beeps at intervals while that conversation is being tapped in order to make it legal. Now, that is the settled law.

There is no evidence in here where regardless of what Mr. Partin consented to it's an illegal and an unlawful act on the part of the government if the government participated in it and I understand that they did, it is illegal and unlawful for them to have such a setup with an induction coil probably on a telephone unless the beeps are as prescribed by law sent along with the message to warn the person who is being tapped that it is a tap.

MR. NEAL: Your Honor, I call on Mr. Haggerty for some law in that respect. We pointed out in our memorandum

in opposition the Supreme Court case of Rathburn versus United States 355 U. S. 107, 1957, and that case was a seven to two decision, but even the dissenters in that case, Your Honor, held that even assuming that the situation we have here would be quite proper in that case the recipient of telephone conversations had it recorded and had an officer listening in on an extension phone.

The Court held that there was a legal interception, there was nothing improper there. The two dissenters, Your Honor, dissented because the conversation was not recorded with the consent of the sender and they pointed out that the petitioner, the defendant, was the sender.

Here we have the witness Partin as the sender, who has consented. This beep stuff is new in the law to me.

MR. HAGGERTY: It's in the Federal Communications system, it's a regulation of that commission which has the same effect as a statute.

MR. BRANSTETTER: May it please the Court, I would like to be heard very shortly on this matter because it involves our original motion to suppress the testimony of Partin.

The government now has filed a memorandum and argument which has just been handed up to the Court taking two inconsistent positions.

First on our motion to suppress the testimony of

Partin this court held that Partin was in Nashville at the request of the Defendant Hoffa. That ruling can no longer stand under the basis of the argument and the report just now handed to the Court.

The finding of the Court based upon the previous proceedings now under theadmission of the government and now in writing signed and on Your Honor's bench cannot stand at all.

That Partin was there at the request, behest, encouragement and being placed there by the United States Government.

Secondly, in the affidavit that is attached to this particular argument on the part of Partin there is a direct, a direct contradiction to what Partin testified on the stand. He was asked if he had made any recordings, if he was furnished any device for making recordings. He said he was not. I believe Mr. Schiffer asked him that question. I sought to ask him the question because I was very much concerned about it and the Court cut me off and said that had been gone over, is my recollection of what took place there.

In the affidavit of Partin and the affidavit of Daniels he says that the above calls were placed from a certain room and that they were placed with the recording-- The recording was placed and operated by Partin.

Now, may it please the Court, that is in direct conflict with the testimony that we sought to have suppressed

of Partin when we were proceeding on our motion to suppress.

Now, I do not believe that it is the province of the government to be in an inconsistent position of this character, let alone having a witness testify to it knowingly. The government, at the time this witness testified, knew that there had been a recording of the telephone conversation, that Partin had been furnished with an apparatus for that purpose, that he had accomplished that purpose, yet when this witness Partin was on the stand he denied any knowledge whatsoever of the recording or being furnished with any material connected with the recording.

Now, there are a goodly number of cases, may it please the Court, where the government takes a position of that sort and uses evidence that they know or by reasonable diligence should know is not true, that then the total testimony must be suppressed.

We move at this time that all of the testimony of Partin in this case be suppressed.

Now, as far as the Rathburn case is concerned that has been referred to by the government, that case does not at all deal with recordings. That case deals with the listening in on an extension phone, so the government's citation to the Rathburn case is just clearly not applicable under the facts that are now before the Court.

We think, may it please the Court, that the total

testimony of Partin must at this point be suppressed, the previous ruling by the Court that Partin was in Nashville at the request of someone other than the government must be overturned and the Court designate on these affidavits and this argument that the government has proven to the contrary.

MR. SCHIFFER: May I address the Court on that subject, please, Your Honor?

THE COURT: All right.

MR. SCHIFFER: On behalf of Mr. Parks. Your Honor, no doubt Your Honor recalls the words of one of the world's most famous jurist, may his memory live forever, Oliver Wendell Holmes, in one of his cited reports stated about wiretapping that it is a dirty business and it remains a dirty business to this day and it remains a dirtier business when government officials, people of our government, resort to that kind of stuff.

Now, I want to say to Your Honor, and I raise this point, I find I finally have reached the point in this case where I want the Court to determine how far it is going to permit the prosecution in this case from Washington to push this Court.

Now, Your Honor's notes reflect that Mr. Partin did testify here under oath, and I asked him the question, at least one other attorney asked him the question, "Did you use any kind of electronic equipment? Did you monitor? Did you

tape? Did you do anything at all to record a conversation?"

Your Honor knows he answered that twice or three times under oath before Your Honor and this jury, he said, "No."

That is unequovical, there is no question what his answer was. Here is an affidavit sworn by the same witness under today's date, Your Honor, and now he says under oath that on both of those occasions I recorded these conversations by use of a device on my receiver given to me by William H. Daniels of the DA's office in Baton Rouge, Louisiana. I then gave the recordings to Mr. Daniels and authorized him to make such use of the recordings as he saw necessary in the execution of his duties, including divulgence of the same.

Now, what is Your Honor now going to do with a man who now provably, demonstrably without any question has committed outright perjury? Are we now to suffer two ways, Judge? Are we now to be caused to suffer because of the illegal activities of the government here in using these things the way they did?

End 21

21A fol.

Are we then again to be made to suffer because of the demonstrable evil perjury committed by this witness for the government? Doesn't your Honor feel at this time we are entitled to some relief in what has become a travesty of justice and not a trial at the behest of the government? Why shouldn't Partin right now be indicted for perjury on what is before the Court right now in two instances of sworn testimony and, further, why shouldn't Partin's testimony now be excluded in its entirety?

How much does this Court want the government to be permitted to be used against the defendants unconstitutionally? To what point, your Honor, are we lawyers supposed to appear here in court, make the pretense of defending according to law when the government pushes the Court to such an untenable position that it cannot do justice in the face of the Partins?

I say one of two alternatives the Court should take at this time, I say this most respectfully, the government having placed your Honor in this position that your Honor then at least, as a very minimum protection for the defendants should strike all of the testimony of Partin in this entire case.

Hereby this second affidavit filed today by the government is complete proof that man lied under oath on material matters, your Honor. He has committed a crime in

addition to perjury, it's all manifest now.

What are we supposed to carry on? Why carry on this trial any more if your Honor is going to permit the Partins to come in here and testify for the government? If a man is given a license by this Court to come in and testify under oath and lies and it's demonstrably provably false, then comes in with another affidavit, your Honor, in which he says, "I lied the first time on a material issue." What does your Honor want from counsel for the defendants? What can we do to defend anybody here in the face of this kind of admitted perjury?

So that is a minimal. I ask your Honor to strike all of the testimony of Partin and caution the government that if they have any more of this monkeyshines, these illegalities, that they are going to push before this Court, that your Honor won't stand for it any more.

Your Honor, many times as indicated to me during the course of this trial I was talking too loud and I told you it was my zeal,I may at times be overzealous,your Honor doesn't know, you have never experienced what it is in this trial to leave your courtroom and go and be surveilled where you know you can't talk to your witnesses and have that 24 hours a day.

The following morning, after a sleepless night, come in here and try to handle a case before your Honor.

Well, we try to do that.

What the Constitution says is every defendant's right, we must carry out our responsibilities. Your Honor countless times has indicated displeasure to me. Can your Honor now point with displeasure to what has been proved on the part of the government?

What else can we say to your Honor? I don't want to cause you displeasure. This is a Federal Court, as I said once before, this stands with my house of worship to God on an equal plane. This is justice to guarantee the American people. How can we go on with this farce of a trial now when Partin's testimony is permitted to stand in the face of his provable falsity now, outright perjury? Can the government now say to your Honor, "Let's continue this trial?"

MR. NEAL: May it please the Court, I would submit to the Court the proposition that there is a no inconsistency even with this affidavit and the testimony. I will let the record speak for itself, there is none, none whatever.

THE COURT: All right.

MR. SCHIFFER: Your Honor give us ten minutes we will point out where the record shows that and where your own notes, your Honor, I am positive, will indicate the answers this man made under oath.

Mr. Neal has the temerity to stand up in this court and tell your Honor your notes are wrong.

THE COURT: All right. The motion to suppress the testimony of the Witness Partin will be overruled. I will reserve at this time the matter of the hearing until I have an opportunity to study the motions and the responses and the cases cited.

MR. BROWN: That motion is as to all defendants?

THE COURT: Yes, as to all defendants. May we have the jury return and the witness return?

MR. NEAL: Excuse me, your Honor, may I cite the Court that the law on the Lawn case in respect to the hearing, the necessity for a hearing?

THE COURT: Well, isn't it in your brief?

MR. NEAL: No, your Honor, it's not. This is a matter of whether the Court should at this time indulge in a hearing, whether they have established prima facie evidence.

THE COURT: Just a moment.

MR. NEAL: It's Lawn (spelling) L-a-w-n vs. United States, 355 U. S. 339, at the second Nardone case is 308 U. S. 344. Thank you, your Honor.

MR. BRANSTETTER: May it please the Court, on the matter I would like to cite the Court, I believe counsel may have referred to the Rathburn case, Rathburn vs. United States, 355 U. S. 107, and I would like to just state this in reference to what I have said previously.

The grant of certiorari was limited to the following questions as phrased by the petitioner.

"Is the listening in of third parties on an extension telephone in an adjoining room without consent of the sender and interruption of a telephone message and the divulgence of the contents of such conversation prohibited by statute."

That was the certiorari question.

MR. NEAL: May I have that case?

MR. BRANSTETTER: Yes, sir.

MR. SILETS: Your Honor, as far as the timeliness and the showing--

THE COURT: (Interposing) Gentlemen, let me read these motions. Let me study the cases and then hear further from counsel upon it. If you have further authorities to cite I would like to have that authority in order to have the opportunity to read it.

MR. SILETS: Your Honor, that is what I was going to give to the Court.

THE COURT: All right.

MR. SILETS: As far as the timeliness, I think I cited this morning United States vs. Silverthorn Lumber Company, if the Court please. If the Court will permit me I will give you that citation.

THE COURT: Yes, I appreciate getting that.

MR. SILETS: That is 251 U. S. 385.

THE COURT: All right.

MR. SILETS: I indicated this morning to the Court in those situations normally a motion to suppress comes up before trial, but when the evidence of the illegality of the search or the documents or the testimony is first called to the attention of the defense, then it is timely to make a motion when that is discovered.

There are a number of cases along that line.

Conti vs. United States, 215 Fed.2d 324. Price vs. Johnson, 125 Fed. 2d 806, as well as Silverthorn Lumber.

THE COURT: All right.

MR. HAGGERTY: May it please the Court, inasmuch as we have now gone into our proof the motion was made by Mr. Berke this morning, and your Honor said you would at the proper time bring it up, but I think the proper time is now to instruct the jury that Count 2 of the indictment has been dismissed.

THE COURT: I did intend during the noon hour and I didn't get time to get that. I did intend to word a

proper instruction in that regard. I will wait until I have had an opportunity to word a proper instruction in that regard and I will do so, Mr. Haggerty. May we have the jury return and have the witness return?

(Thereupon, the witness, Nicholas J. Tweel, returned to the witness stand.)

(Thereupon, a jury of 12 and 4 alternates were brought into the courtroom and the following proceedings were had, to-wit:)

THE COURT: All right, Mr. Hooker, you may resume your cross examination.

FURTHER CROSS EXAMINATION

BY MR. HOOKER:

Q Mr. Tweel--

MR. HOOKER: Mr. Clerk, do you suppose you could find me the original of an affidavit of Mr. Tweel that was filed on October 25, 1963?

BY MR. HOOKER:

Q Mr. Tweel, do you know a man named Robert P. Holly?

A Yes, I believe I do, sir.

Q President of the Stonewall Jackson Life Insurance Company?

A Yes, I do.

Q Now, in connection with my questions this morning, I want to ask you now if your coming to Nashville had anything

to do with your interest through Mr. Dorfman in obtaining any loans from the Teamsters Pension Fund?

MR. HAGGERTY: I object to that as having been asked and answered.

THE COURT: Overruled.

THE WITNESS: Absolutely not. I don't think I met Mr. Holly until some time in the early part of 1963.

BY MR. HOOKER:

Q Did you go to see Mr. Holly in 1962, and in 1962 talk to him at that time about a proposed corporation for the handling of insurance and didn't you tell him that the insurance company was to be set up to handle union insurance?

A No, sir, that has to be wrong because I didn't meet Mr. Holly until 1963.

End Tk 22
Tk 22A fls

Q When in 1963 do you think you met him?

A I think sometime about the time we formed American Hemisphere Life Insurance Company, I think was in May 1963, the first occasion I ever had to meet Mr. Holly.

Q Did you go to see him long before that and before this trial in Nashville?

A No, sir.

Q And have a prospectus of a company that you proposed to organize?

A No, sir, I did not. I met him for the first time in my life in May 1963.

Q You deny that you ever met him before October 1962?

A Absolutely. Absolutely, sir.

Q Now, Mr. Tweel, you say that the only time that you ever saw Mr. Partin was on the occasion of your visit here in Nashville on October 22, 1962?

A That was the first and only time I ever saw Mr. Partin in my life until he took the stand here at this trial.

Q Did you tell Mr. Partin at that time or in any of your subsequent telephone conversations that Mr. Dorfman called you and told you it would be a personal favor to him if you would come down to Nashville and help him set up a method to get to the jury?

A I don't believe I understand that question. Will

you repeat that question?

Q I said did you tell Mr. Partin in either when you saw him here on October 22 or in any of the later telephone conversations you had with him, that Mr. Dorfman called you and told you that it would be a personal favor to him if you would come down here and help him set up a method to get to this jury?

A Certainly not, that is a figment of Mr. Partin's imagination.

Q You deny that?

A Absolutely, sir.

Q You have been present all during the hearing here in the courtroom, have you not?

A I certainly have.

Q Hear Mr. Partin's testimony in its entirety?

A I certainly did.

Q Did you also tell Mr. Partin that you needed the jury list in order to contact Mr. Hall? That is in one of your later conversations?

A Mr. Hooker, I can't be responsible as to what Mr. Partin testified to in this court. I'm telling the jury and the Court the truth. I never discussed anything of that nature with Mr. Partin outside of his personal affairs, his difficulties with the bond, his difficulties with the government and the fact that he wanted to borrow $5,000 off of me

and I'm certain about what I have heard at this point from the courtroom if I had had any such conversation with Mr. Partin it would have been recorded.

Q And you deny that you told him that you needed a jury list so you could contact Mr. Hall?

A I absolutely deny that, sir.

Q And you deny that you ever got a jury list over the telephone?

A Absolutely. I have testified to that already.

Q Did you also tell Mr. Partin over the telephone that soon as Mr. Hall made contact with somebody down here it was your intention to return to Nashville?

A Mr. Hooker, what conversation would I have with Mr. Hall? I only met the man for 10 minutes and I had no further conversation with him other than he calling me about his problems.

Q You say Mr. Hall calling you?

A Mr. Partin.

Q Mr. Partin?

A Yes, sir.

Q And you never had any conversation with him in any way in which you told him that as soon as Dallas Hall made contact here you were coming back to Nashville?

A Mr. Hooker, if I had had any conversation with Mr. Partin to that extent I'm certain the government as I have

already stated here so far have recorded certain telephone calls and they could have certainly recorded that if there had been any incriminating evidence against me.

Q Now, didn't you also tell Mr. Partin, had a telephone conversation with him, that for him to pass word to them that you were going to have to get out of here, that it was too hot for you?

A Absolutely not, sir. I was only in Nashville the one time in my life and I never went back.

Q I'm talking about over the telephone.

A No, sir.

Q Didn't you tell Mr. Partin to tell them that you were going to have to get out of it that it was too hot for you?

A Sir, what would I be talking to Mr. Partin for? I knew Mr. Dorfman. I wasn't acquainted with Mr. Partin.

Q Didn't you also tell him that Dallas Hall didn't want any part of it and that it was too dangerous to touch?

A No, sir.

Q So, as I understand it, how many calls do you now say that you had with Dallas Hall?

A He testified we exchanged about three calls and I honestly believe he is right.

MR. NEAL: Your Honor, excuse me, just a minute, we move to strike that Mr. Hall testified that he never called

this man. Now this man is saying that he testified that they exchanged telephone calls.

THE COURT: Well --

MR. BRANSTETTER: (Interposing) May it please the Court, does Mr. Neal want to argue it at this point?

THE COURT: Well, it will be up to the jury to recall what was testified. Overrule the objection.

BY MR. HOOKER:

Q How many telephone conversations did you have with Dallas Hall?

A He testified that we had three telephone conversations and I believe he is right and Miss Fulton testified that she handled many incoming calls from Dallas Hall to me.

Q And you claim that none of those telephone conversations, none of those three or four calls, conversations with Dallas Hall had anything to do with the jury?

A Absolutely not.

Q What were they about?

A I testified earlier; it is in the record if you want the reporter to read it to you.

Q Well, do you mind telling me again?

End 22a
23 fls

A The initial call Mr. Hall made to me and I answered he discussed the Dade Park Race Track, which was being sold, and informed me of his desire to be a stockholder. The second call concerned about his passes for Miles Park, which I promised to send to him. It was during that call, I believe, that he mentioned something about the reporters being in his place of business the previous evening and discussing the Hoffa trial, as he recollected, although he didn't discuss that with me when I first met him, we didn't discuss the Hoffa trial, but I honestly believe we did discuss it and he recollected that I was interested in it at that time and wanted to know if he could have been of any help to me. I absolutely know I had no interest in the case whatsoever, very insincere conversation, sir.

Q All the telephone conversations with Dallas Hall then according to you were either about horce racing or about some reporters being in his place?

A That's true, sir.

Q And none of them about the jury in the case that was on trial in Nashville at that time?

A Well, he testified and I have testified and I think it's up to the Court and the jury to decide for themselves.

Q But you say none of them were about the trial?

A We reviewed that he mentioned the fact to me on

the telephone.

Q Now, how many times did you talk to Partin?

A Partin called me, according to your records he called me and spoke with me on five occasions, I believe that is true.

Q Do you deny that you ever called him?

A I answered his responses, in other words, he would call Miss Fulton and leave word for me to call him but we could never located him.

Q And all of those conversations were about some attorney in Baton Rouge?

A All of those conversations were not only about the attorney but about his many problems he was having with the government and he was seeking to get a bond and that is what he wanted to borrow $5,000.00 for for apparently he needed $5,000.00 to make his bond.

Q About borrowing some money from you?

A It's true, sir.

Q Did he suggest anything about any collateral?

A No, I didn't even discuss the loan any further, I didn't know the man.

Q What basis did he have to think he could borrow $5,000.00 from you?

MR. SCHIFFER: Object to the form of it.

MR. ALEXANDER: Argumentative.

A Sir, he was employed by the government at that time.

MR. ALEXANDER: Just a minute, Mr. Tweel.

THE COURT: Overrule the objection.

A He was employed by you people at that time and apparently he was calling me at your insistence to see if I had any information on the Nashville situation.

Q What right did he think that he could--, he would have to borrow any $5,000.00 from you?

A Well, Mr. Hooker, I get requests for loans all of the time from people that have a right and people that don't have a right.

Q And you claim that was what one of the conversations was about?

A Absolutely, sir.

Q And the others were about getting him an attorney in Baton Rouge?

A He asked me if I could recollect the name of that attorney in New Orleans, Louisiana. I dug up the name for him and recommended this attorney to him.

Q All right. That is two conversations. Now, what were the others about?

A He asked me again on another occasion if I knew what a fair, legal fee would be for this attorney and I told him I didn't have any personal contact with this attorney and

I couldn't advise him.

Q And that's all you talked to him about?

A Well, he rambled at great length in the conversations and talked about many things, I didn't pay much attention to him myself.

Q You never under any circumstances, you say, talked to Partin about the jury in the Hoffa case that was in progress in Nashville.

A Absolutely not, sir.

Q Now, when you came to Nashville on October 22nd, 1962, or, rather, you got in the night before, who were these men from West Virginia that you saw the next day?

A I got into Nashville on October the 21st and I met these two gentlemen on the evening of October the 22nd. They were a Mr. Cole and Mr. Paden.

MR. SILETS: Your Honor, I think this has been covered once before by Mr. Hooker.

MR. HOOKER: I am leading up to something else, if Your Honor please.

BY MR. HOOKER:

Q The third one was a man named Frazier?

A That's right, I have already testified about Mr. Frazier.

Q Paden and Cole also members of the police force in Huntington?

A I have no knowledge, sir, about Paden and Cole.

Q You don't know who they were or what they did?

A No, sir.

Q To refresh your recollection, wasn't they policemen there in West Virginia?

MR. ALEXANDER: If it please Your Honor, just a minute, Mr. Hooker. This has been gone over once. I thought it was immaterial at the time and objected to it. Now we are going over it a second time.

THE COURT: Overruled. Overruled.

A What was your question?

Q To refresh your recollection, wasn't they both members of the police force in Huntington, West Virginia?

A No, I believe if you will check the records you will find out that is wrong.

Q But, in any event, they are the two men that went with you to the Surfrider room and later went to various places in the alley and finally to Dallas Hall's place?

A Yes, I testified to that, sir.

Q Now, Mr. Tweel, isn't it a fact that you came down here to Nashville, Mr. Dorfman was not here, was he?

A That's true.

Q And didn't come in here until after you had telephoned?

A No, sir.

MR. SILETS: Your Honor, hasn't this been covered?

A I had already testified, Mr. Hooker, if you could recall the record that Mr. Dorfman telephoned me at ten o'clock Sunday morning to meet him in Nashville and we intended to have dinner together. I telephoned him because he didn't come in in time for dinner, I thought perhaps he was delayed or something, which any normal person would have done.

Q You called him something after seven o'clock on the night, the Sunday that you were supposed to arrive here?

A I wanted to find out if he had left his place, whether he was in or out or whether he was going to even show up.

Q Then he came in later that night in a chartered plane?

A That's my understanding, sir.

Q Didn't you call him, Mr. Tweel, and urge him to come on down here, isn't that the reason he finally came in a chartered plane?

A Mr. Hooker, if you will refer to my Grand Jury testimony you will see that my grand jury testimony will sustain as to what I have testified here. He called me at ten o'clock Sunday morning, I am certain he will tell that himself.

Q He flew in here Sunday night?

A That's right, sir.

Q When did he leave?

A He left Monday, I think it was sometime after the noon hour, I don't know exactly when, sir.

Q He got here late Sunday night and stayed until shortly after noon Monday. You got in here Sunday night and stayed until sometime Tuesday morning.

A Well, I would have left Monday afternoon but there was no transportation available and the earliest transportion I could get would be in the morning, sir.

End 23

Tk 24 fol.

Q I want to hand you an affidavit here, Mr. Tweel, that was filed I believe on October 25, 1963, in this case and ask you if this is your signature and if you signed and swore to that affidavit?

MR. ALEXANDER: May it please your Honor, this is an affidavit in support of a motion which was filed by the Defendant Tweel and which motion was withdrawn at his request and was stricken. This had to do with the motion that was made in Nashville back in October. And I think it is highly improper that Mr. Hooker get into this. That motion was withdrawn. It was never presented. Never argued to the Court.

MR. HOOKER: That has got nothing to do with the proposition. I am examining him now on the question of credibility, if your Honor please, what he stated before some of these telephone calls about. And he can't make an affidavit and withdraw it and then be relieved of that.

MR. NEAL: May it please the Court, I specifically was involved in that and Mr. Alexander --

MR. ALEXANDER: (Interposing) May it please the Court, instead of arguing this to the jury --

THE COURT: (Interposing) Overrule the objection.

THE WITNESS: Well, like any other person, I generally sign anything my attorneys gives me. So I assume I signed this. Must have mailed it to me in Huntington, West

Virginia, for signature. But I don't know, frankly, whether I have read the contents of it or not. I signed many documents.

BY MR. HOOKER:

Q Excuse me.

A I sign many documents for my attorneys and I generally don't even read them. I assume they know what they are doing because court procedure is very new with me, Mr. Hooker.

Q Well, did you sign and swear to this without knowing what was in it was the truth or not?

A Well, this is an affidavit submitted to me by my attorney Mr. John E. Jenkins, Jr., my Huntington attorney, who intended to represent me in Nashville and couldn't do it and I had to get a new attorney, Mr. Alexander. In fact, they handled most of my motions for me and I didn't have to be present.

Q Well, I want to ask you, Mr. Tweel, to turn to the second page of that affidavit with the paragraph starting there, I was later served with another subpoena to appear. Do you find that?

A Sure. There are several affidavits here. Which one is it?

Q Well, it is your affidavit? The one you signed and swore to? There is only one of them, look at the second page.

A Will you allow the marshal to point out the page?

Q Yes, I will find it for you.

MR. ALEXANDER: I request that the witness be allowed to read this affidavit in toto before any questions are asked of him about it.

MR. HOOKER: I have no objection to doing that, none whatsoever.

BY MR. HOOKER:

Q This is the part I am calling his attention to beginning right there.

A What is this? I don't see any problem, Mr. Hooker, ask me any question you wish.

Q All right. Hold the affidavit there in your hand. I have a copy of it. I want to ask you if you didn't make this statement.

"I was later served with another subpoena to appear before the Grand Jury on Tuesday, February 12, 1963."

Do you see the point I am reading?

A Yes, sir.

Q "I engaged Nashville attorney James Clarence Evans to appear with me. Instead of being taken before the Grand Jury, Mr. Evans and I met Special United States Attorney Neal, Staffer, and Durkin and Mr. Sheridan."

See that?

A Yes, I do.

Q Am I reading it correctly? Am I reading it right?

A I'm sure.

Q "I was with them four hours and they made notes of my answers. They questioned me about alleged telephone conversations with one Dallas Hall. And again their questions indicated that they had exact knowledge of the content of certain conversations allegedly had with Hall."

Do you see that?

A That is true. That's correct.

Q Did you make an affidavit that the questions that they asked you there indicated that they had exact knowledge of the content of certain conversations that you had had with Hall?

A Yes, I did.

Q Is that true or false?

A That is true. Mr. Neal, Mr. Shaffer, and Mr. Durkin said that in my phone conversations with Mr. Hall they said we know you generally discussed Dade Park and the passes to Miles Park Racetrack. Now, in addition to that at that particular time we were suspicious or maybe some of the defendants, that some of the defendants' telephone wires had been tapped and evidence presented in this court this very date that they did tap telephones. And I had thought at that time we ought to make a motion --

THE COURT: (Interposing) Ladies and gentlemen, Mr. Tweel, respond to the question. Do not attempt to argue to the jury on matters which are not in the record before this jury. Ladies and gentlemen of the jury, you will disregard the statements of the witness and of counsel in that respect.

MR. NEAL: May the Court instruct the jury that that statement is not true? Nothing has been established like that.

MR. BERKE: I'm going to challenge that.

THE COURT: There is nothing, absolutely nothing before this jury in that matter. And the witness, and you will disregard it, ladies and gentlemen of the jury.

MR. BERKE: Just a minute, would your Honor strike Mr. Neal's statement? Your Honor has cautioned the attorneys.

THE COURT: Disregard the statements of counsel.

BY MR. HOOKER:

Q Continuing. "I had not had the conversation imputed to me and that claimed knowledge of the conversation were such that I again repeated to Mr. Neal what I had said before the Grand Jury that the telephone wires must have been tapped. I told him you must have gotten your knowledge from telephone calls by intercepting those calls."

Did you say that?

A Yes, sir. Mr. Neal brought up the subject matter

of the insurance company and my borrowing money from the Teamsters Union and I did discuss that with Mr. Dorfman on the telephone. That was the extent and subject matter of our phone conversations. Mr. Dorfman didn't give him that information about our personal business and I wouldn't give it to him until they asked me about it.

Q Continuing.

"I told him that I was telling him the truth about my own conversations with Hall and that I was willing to have Hall face me in their presence."

A That's right, I told Mr. Neal and Mr. Shaffer and Mr. Durkin to subpoena Hall and have me confront him. His testimony was different from mine and they did not do that.

Q Then you asked if you could be permitted to return to Huntington and get my telephone records and after conferences they agreed to let me return.

A Yes, sir, I returned to Huntington, and I brought all available telephone records which I submitted freely and voluntarily to the government people and they are the same records that they have produced here today and I submitted them to them back in February 1962 (sic).

Q Now, did you also say, the next paragraph beginning on the evening, February 19, 1963, according to my best recollection shortly after I had talked with my Huntington attorney, Mr. Selden McNeer, I received a telephone

call from a Mr. Osborn who told me that he was an attorney for James R. Hoffa and that he would like to interview me if I would permit.

Is that correct?

End 24
24a fls

A That's correct, sir.

Q I told him that he might come to my hotel room and he did, spending approximately thirty minutes with me. We ate supper together and I returned to my hotel.

MR. SILETS: Your Honor, I don't know how this is relevant to this inquiry. I ask that it all be stricken.

MR. HOOKER: He asked that I read it all and I'm reading a portion of it.

THE WITNESS: I didn't ask you to read all of it, Mr. Hooker. You can read the part that you wish to inquire of me about.

THE COURT: Overrule the objection.

BY MR. HOOKER:

Q "I did not mention Osborn's telephone call to any person. On the morning of February 20th, I again met with the FBI agents and was questioned. I believe I was questioned by Mr. Shaffer as to whether I had received a telephone call from a Mr. Osborn on February 19, 1963. I answered that I had and I verily believe that this telephone conversation would have been unknown to any person unless the telephone message had been intercepted."

End 24A

Tk 25 fol.

A Can I explain that, sir?

Q Yes.

A All right. I arrived in the morning to have a meeting with the government agents and the first thing they asked me, they said, "Did you receive a call from Mr. Osborn last night around seven o'clock?"

I said, "I certainly did. I don't know how you people knew about it."

And I explained the whole call to them, just as I have in this affidavit.

Mr. Osborn called me, said he would like to interview me, that he made a practice of interviewing everybody that appeared before the grand jury and that's the exact truth and I told them the exact truth.

Q Now, Mr. Tweel, I just want to ask you one or two other questions about your interview with FBI agents.

MR. ALEXANDER: Mr. Hooker, just a moment. If it please your Honor, in view of the manner in which the witness was admonished a few moments ago by the Court and the comments of Mr. Neal, I would like to ask for a mistrial at this point.

THE COURT: Overrule that motion.

BY MR. HOOKER:

Q With Norwood, Johnson and Sheets, February 1, 1963, and ask you to state if this occurred, that you told

them that approximately a week or ten days after your trip to Nashville that you received a telephone call from Allen Dorfman, believed to be in Chicago, Dorfman asked you if you knew anyone on the Hoffa trial jury in Nashville. Did you tell them that?

A I have no recollection of that, sir.

Q Did you say further that you said that you could not recall Dorfman reading a list of jury members but he may have?

A He would have no reason to and I am certain that the remarks made there was at a meeting in the courthouse with Mr. Dorfman, not on the telephone, because at no time on the telephone did Dorfman and I discuss anything but our business matters.

Q But you say he may have shown you the list at the courthouse?

A No, sir.

Q The jury list?

A I did, I testified to that, I may have glanced at a jury list at the courthouse only, that's all, and they were made public to everybody, just like this jury list was made public.

Q You also say in order to be polite that you may have given Dorfman the impression that you would try to help?

A No, sir, that was at the courthouse, I explained

that to them, that I thought that I looked over a jury list, I had really no definite recollection of it, frankly, because I had no interest in the matter.

Q I am talking about the telephone call.

A No, sir.

Q You say, though, that you may have given--

A (Interposing) They have got the telephone call confused with my appearance in the court.

Q You think you may have given Dorfman the impression in the courthouse that you would be willing to help?

A No, sir, I told him that I would be glad to look the list over, that's all, no harm in that, perfectly legal and proper to do so.

Q Now, you think that the jury list that you saw was not read to you over the telephone but that you may have seen it at the courthouse?

A Sir, the reason that I know that the jury list I saw at the courthouse was a list that contained maybe two or three hundred names because of the thickness of it and no list at any time was read to me over a telephone.

Q Now, Mr. Tweel, did you know when you came to Nashville that the Hoffa trial was to commence on October the 22nd?

A I couldn't say that whether I did or not, I don't know.

Q This was the first time you ever was in Nashville and the last time in your life?

A Well, no, I came back, I was subpoenaed there before the grand jury.

Q Well, before the grand jury?

A That's the first time and the only time that I was in Nashville, Tennessee, in my life.

Q And the only time really that you have been there since on any business of your own, the other times has been in connection with this case, has it not?

A That's right, sir.

Q And you knew, you say you don't remember that you knew anything about the trial?

A Well, I don't recollect. I remember buying a morning paper and it stated that the Hoffa trial was to commence today, but I wasn't that much interested in it.

Q Dorfman didn't mention it to you?

A He may have and he may not, I don't know, after all, Mr. Hooker, that has been two years ago and it's hard for me to recollect.

Q You--

A (Interposing) There's a lot of things.

Q You flew in here on Sunday night and he flew in some time--

MR. ALEXANDER: (Interposing) May it please the

Court, this is highly repetitious, we have been over and over and over this.

THE COURT: Sustained.

A I came into Nashville on Sunday evening, I think it was about six o'clock, sir, October the 21st.

Q And spent the morning in the United States District Court?

A I think I was there about an hour and a half, maybe an hour and 45 minutes, sir.

MR. HOOKER: That's all.

MR. ALEXANDER: If it please the Court, I would like to have copies. I demand on the government for copies of the FBI reports, any statements and any grand jury testimony which Mr. Hooker has examined this witness about, I think that we are entitled to it.

THE COURT: All right. Well, we will take the matter up at the first recess. I won't ask counsel for matters in connection with that.

MR. ALEXANDER: I'd like to use it for redirect, I'd like to have some time to study and look at it. Mr. Hooker has pulled a sentence out of various reports, various statements, various grand jury testimony. I think as Mr. Tweel's attorney I am entitled to look and study and use it for purposes of redirect.

MR. HOOKER: We are not required, if your Honor

please,this is a defendant, to furnish him either a copy of his grand jury statement, he knows what he said before the grand jury, nor any statement that he made to the FBI.

THE COURT: Overrule the request then.

MR. SILETS: Well, on behalf of the Defendant Dorfman, your Honor, I will make the same request for use in my cross examination of Mr. Tweel.

THE COURT: Overrule that request.

MR. HOOKER: If your Honor please, is the original of this affidavit that is filed here, in order that it may be used later, I would like to offer that, the affidavit, as an exhibit.

THE COURT: It may be filed for identification purposes only.

MR. HOOKER: Then I would like to ask Mr. Dorfman if he signed it and, if so, move that it be--I mean Mr. Tweel, and move that it be made--admitted to evidence.

THE COURT: Well, I believe that has already been.

MR. HOOKER: He signed it and swore to it, we think it's admissible in evidence, he has identified it.

MR. ALEXANDER: He identified the questions read into evidence, I don't think it would be proper to admit a part of a court record into evidence.

THE COURT: I will admit it for identification

purposes only at this time. What number will that be?

MR. DALE: 164, your Honor.

(The affidavit referred to above was marked Government's Exhibit No. 164 for identification only.)

MR. NEAL: Your Honor, that would be an admission of a party. If the Court is not going to rule at this time that's fine, but we would like to have it submitted to the jury for their reading as an admission of a party.

MR. BRANSTETTER: May it please the Court, counsel for the government wants to admit the truth of the matters asserted in it with reference to the wire tapping and so forth then maybe it should be introduced; it's otherwise an affidavit of this sort that is not admissible for any purpose.

THE COURT: Let the Court have an opportunity to examine it first. I will admit it for identification purposes at this time, rule upon later whether it should be admitted.

BY MR. SILETS:

Q Mr. Tweel--

MR. ALEXANDER: (Interposing) Just a moment, Mr. Silets. A procedural question, your Honor.

THE COURT: Yes, sir.

MR. ALEXANDER: There will be some short redirect examination.

THE COURT: All right.

MR. ALEXANDER: Will we follow the cross

examination, that is, of Mr. Silets or whoever cross examines Mr. Tweel?

THE COURT: Yes, you may.

MR. ALEXANDER: This would not be the proper time for redirect?

THE COURT: That's correct.

MR. HAGGERTY: May it please the Court, on behalf of the Defendant Hoffa, we desire to join in the request made by Mr. Alexander and Mr. Silets for the grand jury testimony and the FBI reports.

MR. SCHIFFER: May that go for all defendants, your Honor?

THE COURT: Yes, sir.

BY MR. SILETS:

Q Mr. Tweel, isn't it true that on the 21st of October when you spoke to Mr. Dorfman he advised you that he had to go to Nashville to bring some records in for use in the case?

A That is true.

Q And hadn't he told you that he had been requested because records were in his possession?

A That's true.

Q And the case was to start the very next day?

A Mr. Hooker asked me that same question and I told him I didn't actually know, frankly, I didn't have that

25 - 9

much interest in it, it was going to start Monday or Tuesday or Wednesday.

End Tk 25
Tk 25A fls.

Q Now, you said that -- you testified about your being subpoenaed before the Grand Jury. Were you subpoenaed to come back a second time?

A Yes, I was subpoenaed to come back a week or ten days later to appear before the Grand Jury.

Q Did you actually appear and testify?

A No, I thought I was going to go before the Grand Jury but some of the government attorneys just wanted to interrogate me further about Mr. Dorfman and my business in Nashville and my business relationship with Mr. Dorfman.

Q Now, Mr. Tweel, did you have a conversation with Mr. Sheridan on that occasion?

A Yes, he was in the room at frequent occasions, I don't know whether he was in the room all of the time or not, I don't recall.

Q Did you have a conversation with him alone, just the two of you?

A No, the only time I remember talking with Mr. Sheridan alone was the first time I was subpoenaed before the Grand Jury, I think I spent about 20 minutes to a half an hour with Mr. Sheridan at that time.

Q And did he go over the same matters with you?

A Well, I testified to what series of questions he asked me and indicated to me at that time that they would like for me to cooperate, to what extent I could to help

prosecute Mr. Hoffa and that I wouldn't have any trouble if I got along all right but all I could do and, like I told him, is just tell the truth, I can't tell anything but the truth. Certainly I don't know Mr. Hoffa, I never met him, and I don't want to implicate people I am not even acquainted with.

Q Now, Mr. Tweel, what did you normally do with your phone calls when you are through with them?

A You say -- what do you mean, after I have made a conversation?

Q Yes.

A Just hang up the telephone.

Q You don't keep track of them necessarily?

A No. All the calls that I make, of course, local calls, there's no record of, but all my long-distance are a matter of record, they are listed on the telephone bill and my credit calls are listed on the telephone bill, I can take my telephone bills and tell you where I am at every day of the year by where I make a telephone call from.

End 25a
26 fls

Q Well, Mr. Tweel, getting back to the date that Mr. Hooker placed so much emphasis on, 27th of November, when Mr. Dorfman tried to talk to you and the line, there was noise on the line, and he finally called you back about ten or twelve minutes later, and as I understand your testimony you discussed again the insurance company and the loans on the Pritchard Hotel in West Virginia, the West Virginia Building?

A Yes, the insurance company was very urgent because the company was formed I believe in either the latter part of April or May of 1963 and we all had our money invested in it and naturally we were anxious to submit it to the S. E. C. so we could have a registration.

Q You mean 1962?

A Yes, sir, 1962.

Q Now, isn't it a fact that your attorney, Mr. McNeer, the very next day on November 28, 1962, presented a memorandum for his use and your use concerning the matters that were discussed that night with Mr. Dorfman?

A Yes. I had authorized Mr. McNeer to proceed with an abstract of the titles to these properties, that is, checking the titles to see whose names the titles to these properties were in but prior to that Mr. McNeer had been working with my accountant, Mr. Bagby, who will also testify here today on getting up the brochure or prospectus on these two properties.

Q And you furnished a brochure or prospectus to Mr. Dorfman, didn't you?

A Yes, sir, I mailed it to Mr. Dorfman the latter part of November.

Q Mailed it to Mr. Dorfman?

A Yes, sir.

Q Mr. Tweel, I hand you or the marshal will hand you what is marked as Defendants Exhibit No. 165 and No. 166. No. 165 being entitled the West Virginia Building, Huntington, West Virginia.

(Brochure referred to above was marked for identification Exhibit No. 165.)

MR. SILETS: No. 166 is entitled the Pritchard Hotel Building, Huntington, West Virginia, are those the documents that you mailed to Mr. Dorfman pursuant to your conversations?

(Document referred to above was marked for identification as Exhibit No. 166.)

A Yes, they are the documents.

Q I would like to offer them in evidence.

MR. HOOKER: Could we see them.

MR. SILETS: Then could they be passed to the jury?

THE COURT: All right, anything further of the witness? If not, Mr. Alexander--

MR. ALEXANDER: Just a moment.

MR. SILETS: Your Honor, I would like to have those admitted in evidence and then passed to the jury.

A All right, yes, sir.

(Brochures referred to above previously marked Exhibits No. 165 and No. 166 for identification were received in evidence.)

MR. NEAL: Your Honor, we object to these. It reminds me of the story of the man who was charged with an offense and he says, Your Honor, I did commit it--

MR. BERKE: (Interposing) Your Honor, we object.

MR. ALEXANDER: I object if he is going to argue the case.

MR. NEAL: Said I didn't commit the offense, I was ten miles away.

MR. BERKE: We object, Your Honor, I think we are entitled to some protection from Mr. Neal.

THE COURT: Yes, do not comment on the matters after I have instructed you to turn the exhibits in.

MR. HOOKER: Supposed to have been mailed, if Your Honor please, to Mr. Dorfman, as I understood it and we would like to inquire.

MR. NEAL: I beg Your Honor's pardon.

BY MR. SILETS:

Q When were they mailed.

A I believe the latter part of November, exactly

when Mr. Hooker, I couldn't recollect. I know from the testimony by witnesses it had to be about that time because my CPA will testify he completed these in the early part of November.

Q 1962?

A 1962.

MR. NEAL: Your Honor, what we're concerned with, what relevancy they have to this. Couple of prospectus' no date, no sign.

THE COURT: Overrule the objection. Allow them to be introduced.

MR. SILETS: And passed to the jury please?

THE COURT: All right.

CROSS EXAMINATION

BY MR. BERKE:

Q Mr. Tweel, one or two questions here. At any time during your conversations with the government agents, either before or after Grand Jury met, did they threaten you with an indictment?

A Yes, sir, Mr. Neal threatened to indict me if I didn't change my testimony at the last meeting I had in Nashville, Tennessee.

Q How did they threaten you or what did they do to tell you you can keep from being indicted?

A Well, they first told me they thought my wife and

children had been threatened. I told them that was ridiculous. My family hadn't been threatened. Wasn't any particular reason. When they discussed the possibility of indictment, of indicting me, told me my testimony was not true and I told them I gave them my testimony to the best of my knowledge and recollection. Under the circumstances I couldn't help that. I certainly couldn't implicate Mr. Hoffa, a man whom I didn't know, never met, never been acquainted with him. I had only known Mr. Dorfman probably eight or nine months at that time, maybe a year at the most.

Q Did they tell you why they wanted you to swear against Mr. Hoffa?

A Sir?

Q Did they tell you why they wanted you to swear against Mr. Hoffa?

A Well, they didn't explain it in any detail, but I could tell from the tenor of their conversation that they probably would like to have had some more evidence or something on Mr. Hoffa.

MR. BERKE: All right.

MR. ALEXANDER: Any further cross examination, Your Honor?

THE COURT: Any further cross examination from any party?

MR. HOOKER: Yes, I want to ask him.

MR. ALEXANDER: Wait just a minute. He has finished his cross examination.

THE COURT: Well, he would only be permitted to cross examine him further with regard to matters that have been brought up.

MR. HOOKER: That is all I want to ask him about. Perfectly willing to wait until Mr. Grady gets through.

MR. GRADY: That is all right.

RECROSS EXAMINATION

BY MR. HOOKER:

Q I believe, Mr. Tweel, I want to ask you who was present at the time you claim Mr. Neal threatened you with indictment?

A Mr. Shaffer, Mr. Durkin, and I believe Mr. Sheridan.

Q Wasn't also Mr. Clarence Evans, a lawyer in Nashville, who was down there with you? Went with you?

A Mr. Evans had already gotten up to leave and this was at the doorway and Mr. Neal was standing there, in fact Mr. Neal was sort of feeling my arms, see how strong I was, told me it would be a fact that I would be indicted.

Q Well, was Mr. Evans there with you?

A No, he had gotten up. The meeting was over at that particular time.

Q Well, was he out of the room?

A I don't know where Mr. Evans was. He may have

been there. He may not have been there.

Q Well, was he in position to have heard it?

A Possibly.

Q Possibly was and Mr. Neal was there?

A I know this, Mr. Hooker, that Mr. Evans and I discussed it as we left the building and went up to his office.

Q Discussed the fact that he threatened to indict you?

A That's right.

Q And so he did know about it?

A Well, I would say he did.

Q And Mr. Shaffer was present?

A Mr. Shaffer and Mr. Durkin and I'm not certain about Mr. Sheridan.

MR. HOOKER: All right. That is all.

MR. ALEXANDER: Any further recross examination, Your Honor?

THE COURT: Any further recross examination? All right, Mr. Grady.

MR. GRADY: We would like to get these exhibits in, Your Honor.

End 26
26A fol.

REDIRECT EXAMINATION

BY MR. GRADY:

Q Mr. Tweel, I will ask you to look at those two pictures and state whether or not you can identify them and if so, what they are?

A Well, these pictures represent the office in which Miss Fulton worked in at Mayflowers Distributors. It shows two desks back to back to each other and shows one of the telephones and the other telephone I know is on the other desk, but it doesn't show in this picture.

MR. HOOKER: Could I see them?

THE CLERK: Exhibit No. 167 and No. 168.

(The photographs referred to above were marked for identification as Exhibits No. 167 and No. 168.)

BY MR. GRADY:

Q Mr. Tweel, did the government furnish your counsel and furnish you photostats or copies of your telephone records that they had subpoenaed over a period of several months?

A Well, I furnished the government all the records of my calls during the period they were questioning me on voluntarily. But here at the beginning of the trial they did furnish me with a photostat copy of all the calls that I made during that period and I was a little flabbergasted to see that I made that many calls myself.

Q Did you count those calls?

A Probably eleven hundred of them, long-distance calls, made by myself. The majority of them made by myself.

Q I will ask you if this is a photostat of what they furnished you?

A Yes.

Q And will you make that exhibit to your testimony for the purpose of showing the number of telephone calls you made and the number they selected?

A I didn't understand you, Mr. Grady.

Q Would you make that an exhibit to your testimony for the purpose of showing the number of telephone calls they subpoenaed in relation to the number that they have introduced here in evidence?

End 26a
27 fls

A Well, there's roughly 1,100 long-distance calls here, not including any local calls that I made and they are probably introduced here, I think maybe eight or ten calls, something like that.

MR. HOOKER: May we see that, Mr. Sertel?

Q Mr. Tweel, these calls show from August, calls from August through February?

A Whatever the dates indicate there over a period, I think those were over the period the fall of 1962, October, November, and December.

MR. GRADY: Your Honor, we'd like to make that an exhibit, have it numbered and passed to the jury.

THE COURT: That will be 169?

MR. DALE: Yes, your Honor.

(The list of calls referred to above was marked Defendant Tweel Collective Exhibit No. 169 for identification received in evidence.)

MR. ALEXANDER: Were both of those given one exhibit number?

MR. DALE: Yes.

THE COURT: Anything further of this witness?

MR. HOOKER: No, sir.

MR. ALEXANDER: I would like for the jury to finish looking at those.

THE COURT: All right. You may step down, Mr. Tweel.

THE WITNESS: Thank you, sir. I wish to apologize if I made a statement before the jury that wasn't proper.

THE COURT: All right.

(Witness excused.)

THE COURT: As soon as the jury has finished examining these exhibits, we will take a 10-minute recess before calling the next witness. The Court is not in recess at this time.

MARSHAL SERTEL: Let's be quiet, please, court is still in session.

End 27
23 fls

THE COURT: All right, the jury may be excused at this time.

(Thereupon, at 3:07 o'clock P.M., the jury of 12 and 4 alternates were excluded from the courtroom.)

THE COURT: Gentlemen, do you have any authority to cite to the Court on your request for grand jury minutes and FBI reports on this witness?

MR. BRANSTETTER: I believe, may it please the Court, that there was a memorandum submitted previously on that. We will see if we can locate it and refer to it.

THE COURT: Do that, please.

MR. BRANSTETTER: May I also cite to the Court in connection with the Rathburn case that was mentioned on the government's memorandum?

THE COURT: Yes, sir.

MR. BRANSTETTER: Binetti vs. U. S., 355 U. S. Page 96. Immediately precedes the Rathburn case.

THE COURT: All right. We will be in recess.

MR. SILETS: Your Honor, there is one other case that I think might be pertinent and that is Gordon vs. United States, 344 U. S. 414. As far as the co-defendant having the right to see these documents because they obviously are relevant and the basis and necessity for examining them have been shown and they are important and material to the matters at hand. Now, the fact that they happen to be FBI

reports, the fact that Congress has enacted the Jencks Act is not in our opinion, does not overrule the theory of Gordon vs. U. S. which was a case prior to the Jencks Act.

And I suggest to the Court that case.

THE COURT: All right.

MR. NEAL: May I cite one case, your Honor? United States vs. Socomy-Vacuum Stands for the proposition that we do not have to turn over these things to defense counsel.

As a matter of fact, your Honor, I have cases here that say counsel for co-defendants have no right to cross examine another defendant unless he indicts them, unless he accuses them of the commission of the crime.

I could give those cases to your Honor.

Now, with respect to the Socomy-Vacuum case, 310 U. S. 150. With respect, your Honor, to the grand jury minutes and to the FBI report, I think a fair procedure would be to hand to the Court that part of the report we examined on so the Court can determine whether we had taken it out of context or something like that. We would hand it to the Court. The FBI report from which the man was examined, and the grand jury minutes with respect to which the man was examined.

THE COURT: All right.

MR. NEAL: Hand it up to the Court to show that—

to show that the questions were fair and were not taken out of context and so forth.

THE COURT: Well, we can do that. May we be in recess then for ten minutes?

(Thereupon, at 3:10 o'clock P.M. court was in recess.)

End Tk 28
Tk 29 fls.

(Following the recess, the jury of twelve and four alternates remained excluded from the courtroom, and in their absence, the following proceedings were had, to-wit:)

THE COURT: Yes, Mr. Silets.

MR. SILETS: May it please the Court, during the examination of the Witness Tweel I was served with a document entitled, "Government's Memorandum of Law - Applicability of 18 U. S. C. 3500 - Transcripts or Recordings of Telephone Conversations Between a Government Witness and a Defendant Taken With the Consent of the Witness by State Law Enforcement Officials."

Attached to the memorandum are two affidavits, one of an employee of the District Attorney's office in Baton Rouge, Mr. William H. Daniels, and the second an affidavit executed by the witness Edward Grady Partin.

Now, I assume that the government memorandum and supporting affidavits were filed in opposition to the motions filed by the defense on the behalf of all defendants as to the motion to suppress.

I note in the affidavits attached that the affiants are restricting very carefully, very carefully restrict their response to a telephone call between the Witness Partin, two calls between the Witness Partin and the Defendant Hoffa. However, there is no response anywhere to whether there were recordings of the same or similar nature with respect to any

of the other defendants.

Even though the memorandum is entitled "Telephone Conversations between a Government Witness and a Defendant" and was apparently filed in opposition to the motion filed on behalf of all defendants.

Now, I would like to inquire of the government at this time whether there are any such recordings with respect to any other defendant and also with respect to the Defendant Hoffa, whether these are all the recordings?

THE COURT: Well, gentlemen, these are written motions and I have asked for written responses to be made to them.

MR. SILETS: Well, am I to assume this, this is the totality of all of the recordings that were made with this witness Mr. Partin?

MR. NEAL: Your Honor, we respond to matters brought up when they make some effort to show something. We are not called upon to make a general broad response to things. I have responded once and I respond again there is not anywhere in this case, to my knowledge, and I think I would know if there was since I am completely familiar with the evidence in this case, its origin and its ultimate disposition, any evidence obtained by illegal wiretapping of anybody's telephone anywhere at any time.

Now, when a prima facie showing has been made,

or at least there is any question of whether any prima facie has been called, like with respect to the two telephone conversations, we have responded under Lawn and Nardone and other cases of the Supreme Court, United States versus Fujuomoto. We don't have to get up and respond. They call and give us any recordings any time, we responded to a specific allegation and our response was with respect to 3500, also is a response to respect to the allegation or the motion to suppress because of wiretapping.

MR. SILETS: When we file a motion of this sort on behalf of these defendants, we allege what is to our knowledge at the moment and it may be, in fact, that there are additional matters which are of the same character and once they have alleged enough for the Court to ascertain that these events have occurred, then the government is obliged, I think, under the Coplin case to come forward and respond to all of these and the burden shifts to the government, your Honor.

Now, if the government is taking the position that these are the sum totality of all of the calls that were intercepted in this fashion and a device was used to listen in, well, then, I think we are entitled to know so that we can respond accordingly, but as it stands now, Mr. Neal is being cautious and deliberate in his remarks and saying that he doesn't know anything about wiretapping and

it's his personal knowledge.

Well, he is drawing a legal conclusion and I don't want to get into that dispute, but my question is this the totality of the calls, either to Dorfman or any other defendant or to Hoffa? How far can we respond? As a matter of fact, this very subject and this very circumstance is what should lead the Court to have a hearing on the issue.

THE COURT: All right. Well, the Court will certainly want to study the matter overnight.

MR. HAGGERTY: I call it further to your Honor's attention that there are devices which may be illegal, dictaphones are planted in rooms, dictaphone amplifiers that are placed on walls in between rooms. I think we are also entitled to know in that field if the government has such recordings.

THE COURT: All right.

MR. HAGGERTY: The only thing isn't telephone taps that are illegal.

MR. SCHIFFER: Your Honor, may I address the Court on the same subject but with another aspect of it which may have escaped the Court?

Your Honor will recall about two weeks ago I read into the record from the United States versus Berger what responsibility of prosecutors were in the federal courts or any court, for that matter, and part of the quotation had to

do with the activities and the manner in which a prosecution is carried forward against defendants, and if your Honor will recall part of that quotation in the Berger case was that the prosecution is at liberty to strike hard blows but not foul blows.

Now, your Honor has seen a performance in this court, and I specifically draw this Court's attention to it because we are helpless as defendants' counsel here unless the Court itself uses the power which it was designed to use by its constitutional authority in that when Partin testified in chief and on cross examination on this witness stand under oath he stated that insofar as he knew he did not partake of anything concerning any kind of monitoring or recording device so far as he knew with anybody he spoke with. Now, that is his sworn testimony.

MR. NEAL: What page?

MR. SCHIFFER: Now, then, without interruption. Mr. Neal, the shoe is now on the other foot. Without interruption from Mr. Neal, may I point out, your Honor, where the United States Supreme Court tells a prosecutor that you may strike hard blows but not foul blows, I say it violates every principle of American due process of law and the attorney's obligation to this court that if he puts a witness on the stand, particularly in this case a government witness who he knows is testifying falsely, I say the obligation on prose-

cutors is to immediately advise the Court that the government witness has testified falsely to a material fact and that when the prosecutor sits and doesn't get up and so advise the Court and permits their own witness to commit perjury, to that extent they have violated the very precept laid down by the United States Supreme Court, not only in U. S. against Berger but every case before and since.

End 29
30 fls

And we say to Your Honor with utmost respect and with our desire certainly at least of defense counsel all of them here to preserve the integrity of our judicial system to take proper action against Mr. Partin and anybody who assisted him in bringing on this perjury and that Your Honor take such steps now and curtail this trial, give us a hearing so that we may show that from the very inception of Mr. Partin's activities he was carrying on something illegal. He was carrying it on as a government agent. He was a paid informer. That the payments to him were concealed from the very government records which were prepared by the Department of Justice or people in that department to give us the opportunity to show to Your Honor that this entire fabrication on the part of Mr. Partin which is now provable by his own admitted perjury then at this time we curtail this trial so that we can get at those facts because if Your Honor makes a finding after listening to all the evidence, then I take it as a proposition of law and equity this Court must dismiss this indictment and at least at a minimum throw out this case, dismiss and expunge all the testimony of Mr. Partin from this case and if Your Honor should do that then Your Honor knows that on a motion at that time to dismiss the indictment it would have to be dismissed in totality as to each and every defendant because without Partin's false testimony there is no case to go to the jury as a matter of law.

And I again implore Your Honor and I think I speak for all the counsel here that Your Honor take your constitutional authority and use it to protect the defendants and prevent the imposition upon this court of a falsehood when the government knew it was false and did not so advise the Court and certainly they wouldn't advise defense counsel.

MR. NEAL: Your Honor, may it please the Court, it shouldn't be too difficult for Mr. Silets or Mr. Schiffer to point out the record to the Court and counsel for the government.

THE COURT: Gentlemen, I have aksed about three or four times today to give the Court an opportunity to study this motion. Everybody wants to keep arguing it. Let's proceed, let's have the jury.

MR. ALEXANDER: Did Your Honor rule on the request-- Did Your Honor rule on the question of our obtaining the Grand Jury minutes?

THE COURT: I asked for any authority on that and I was checking, trying to find any authority. The Court hasn't been able to find any authority for doing that, Mr. Alexander. If counsel finds authority for that I will--, if counsel finds a case on that, the case that Mr. Silets referred to was a case of a government witness. 355 U. S. Do you have any such authority, if you do have any such authority, please get that for me overnight.

MR. ALEXANDER: All right, sir.

MR. HAGGERTY: Your Honor,have you had time to prepare Your Honor's instructions to the jury about the dismissal of the Second count of the indictment?

THE COURT: No, sir, every time I had a brief recess it seems like there have been half a dozen legal questions and I just haven't had an opportunity to prepare that. Let's have the jury.

MR. BROWN: If Your Honor please, if I may at this time, Mr. Neal is wondering about the page in the transcript Mr. Partin made the statement at Page 3624, he was asked the question;

"Question: Did you have ay kind of recording machine or something to take down everything you heard so you could review and impress your mind with it?

"Answer: No, sir, I did not."

Page 3624 and 3625 of the transcript.

THE COURT: All right, let's have the jury return and the next witness.

THE CLERK: Raise your right hand, please? Do you solemnly swear that the evidence you will give in this case will be the truth, the whole truth, nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Have a seat, please.

(Thereupon, the jury of 12 and 4 alternates were brought into the courtroom and the following proceedings were had, to-wit:)

MR. ALEXANDER: May we proceed, Your Honor?

THE COURT: Yes, sir.

VANN A. BAGBY,

a witness called at the instance of the Defendant Nicholas J. Tweel, having first been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. ALEXANDER:

Q Would you state your name to the jury?

A Vann A. Bagby.

Q Where are you from, Mr. Bagby?

A My business is in Huntington, West Virginia.

Q What business are you engaged in?

A I am a certified public accountant.

Q How long have you been so engaged?

A 1955.

Q Mr. Bagby, have you on various occasions done work for Mr. Nicholas Tweel?

A Yes.

Q What is the nature of your general employment? What has it been with Mr. Tweel?

A I prepare his personal income tax returns.

Q Did you have occasion to do any other type of work for him during the year 1962?

A Yes, sir.

Q What was the nature of that?

A Analysis of income and expenses dealing with two buildings of which Mr. Tweel was interested.

Q I hand you two prospectuses which have been submitted in evidence and reviewed by the jury and I ask you if you were instrumental in preparing and obtaining the information, the general format of these prospectuses in connection with your duties as a certified public accountant?

A Yes, sir, that one is on the West Virginia Building practically all of the material, schedules of income, cash flow, and so forth, that appear therein I prepared. The other parts of it I gathered together most of the information and got it from various and sundry sources from building managers and so forth.

Q When did you begin to gather this material and start to work on this matter?

A I believe I talked with Mr. Tweel first about near the middle of October.

Q Near the middle of October and when did you finally complete your information and present these to Mr. Tweel? Or what did you do with them?

A Somewhere in October.

Q Now you said in October, what year is this?

A 1962.

Q 1962?

A Yes, sir. On the 31st of October, I had an appointment with Mr. Tweel to see Mr. Mullins who was the building manager of the West Virginia Building. That appointment was postponed. It was completed on the 1st day of November I believe, that when we had a conference in Mr. Mullins' office at which time he gave me various and sundry bits of information concerning the building, income and expense sheets. I had in my possession at that time almost what would be called a balance sheet of the building that Mr. Tweel had given me some week before that. I believe--

Q (Interposing) Sometime prior to the middle of October.

A Somewhere close to the middle of October, Mr. Tweel gave me that sheet which was from a Mr. Rycker I believe in New York, who owns the building.

Q But you were the certified public accountant who gathered most of this material and assisted in the preparation of these particular prospectuses?

A Yes, sir, I gathered this material and most of it was done from the 8th, 9th, 10th, and 11th or 12th of November, 1962.

Q Upon the completion of your work and the information

which you had gotten, I gather, I suppose, you turned this over to Mr. Tweel.

A Yes.

Q And what he did with it you do not know?

A No, I do not know.

Q Now, Mr. Tweel has testified that he was interested in the American Hemisphere Life Insurance Company at one time, are you familiar with that?

A Yes.

Q Were you the auditor who was employed by that company or by Mr. Tweel to--

A (Interposing) Yes.

Q To assist in the arrangements of this business?

A By the company, yes.

Q Did you ever have occasion to meet a Mr. Dorfman in connection with that insurance business?

A Yes,sir.

Q When was this?

A October 12th.

Q What year?

A 1962.

Q And under what circumstances, where did you meet him and what was it, just tell us who was there and what the situation was.

A I don't think that I could tell everyone that was

there without referring to--

Q (Interposing) What was the occasion?

A This was on the occasion of organizational meeting, American Hemisphere Life Insurance Company, I believe all the members of the Board of Directors were there. The officers were there. We met at a dinner meeting at the Pritchard Hotel in Huntington.

Q This was on October 12, 1962?

A Yes.

Q And did you meet Mr. Dorfman at that time?

A Yes.

End 30

Tl 31 fol.

Q Did you talk to him about the insurance business generally?

A Yes. I don't remember specifically what was said, we were talking about American Hemisphere Life Insurance Company, insurance business generally.

Q Yes. In connection with all of your business activities with Mr. Tweel, state whether or not you have ever heard him mention the name of Mr. Hoffa.

A No, sir, I don't recall that he ever did.

MR. ALEXANDER: Yes, sir. I think that is all.

CROSS EXAMINATION

BY MR. SILETS:

Q Mr. Bagby, were you ever told by Mister--oh, excuse me.

THE COURT: It is all right. Proceed, Mr. Silets.

MR. NEAL: Don't bother me, he can go ahead.

MR. SILETS: I will wait until the government finishes.

THE COURT: All right.

BY MR. NEAL:

Q Mr. Bagby, you are a certified public accountant, are you not?

A Yes, sir.

Q I don't see any signature or certification on these two exhibits, 165 and 166.

A They are not certified, no, sir.

Q Pardon?

A They are not certified statements.

Q Not certified statements?

A No, sir.

Q Well, could you tell us why it is, any particular reason why they are not certified?

A Because, yes, sir, because I didn't get--check third party sources on that information. I took the information from Mr. Mullins, who was the building manager, he presented to me the information concerning it. I accepted his figures without third party confirmation.

Q In other words, you didn't do on these the sufficient work required to certify those as is your responsibility, is that correct?

A No, sir, that is--

Q (Interposing) Is that correct?

A That's true.

Q Mr. Bagby, were you in Nashville, Tennessee, on October the 21st, 22nd, 1962?

A No, sir.

Q Then you have no knowledge of any conversations between the Defendant Dorfman, the Defendant Tweel in this case?

A You mean in Nashville?

Q Yes, sir.

A No, sir.

Q You don't have any knowledge of any conversation between the Defendant Tweel and a man Edward Grady Partin?

A No, sir.

Q Did you ever listen in on a telephone conversation between the Defendant Dorfman and the Defendant Tweel?

A No, sir.

Q Did you ever listen in on any telephone conversation between the Defendant Dorfman and a man named Dallas Hall in Nashville, Tennessee?

A No, sir.

MR. SILETS: Your Honor, I am going to move that that be stricken, there is not a single piece of evidence Mr. Dorfman ever spoke to Mr. Dallas Hall.

MR. NEAL: I beg your pardon, I meant--

MR. SILETS: (Interposing) Yes, sir.

MR. NEAL: I beg your pardon, I meant Mr. Tweel.

MR. SILETS: May the jury be instructed to disregard?

THE COURT: Yes.

MR. NEAL: I mean Mr. Tweel.

BY MR. NEAL:

Q Did you ever listen in on a conversation between Mr. Tweel and a Mr. Dallas Hall in Nashville, Tennessee?

A No, sir.

Q Then you have no knowledge of what they may or may not have talked about?

A No, sir.

Q You have no knowledge then the Defendant Tweel asked the Defendant Hall or Mr. Hall about whether he knew anybody on the jury or not?

A No, sir.

Q You don't know whether the Defendant Tweel told Mr. Partin that he was in Nashville to set up a method to get to the jury then, do you?

A No, sir.

Q You don't know--

MR. SILETS: (Interposing) Your Honor, this is obviously beyond the scope of the direct, and it's also argumentative. Is Mr. Neal trying to argue his case?

THE COURT: I believe he answered. I believe I will sustain.

BY MR. NEAL:

Q In other words, you know nothing about the issues in this case, is that correct?

A Only those matters of which I have been inquired.

Q And that's something about the Defendant Tweel's investments or finances, is that correct?

A Yes, sir.

MR. NEAL: They submitted the man, your Honor, I just wanted to find out what relevance his testimony had.

THE COURT: All right.

MR. ALEXANDER: I think it's very apparent.

MR. SILETS: I'd like to ask one question.

BY MR. SILETS:

Q Mr. Bagby, do you recall Mr. Tweel telling you that he had been advised by Mr. Dorfman that these documents were not sufficient as a basis for determining whether a loan was possible and it was necessary to obtain an appraisal on these properties?

A I don't recall the exact conversation. I remember that some time after these brochures were prepared Mr. Tweel told me it might be necessary to have an appraisal made.

Q How long after, in your best recollection, would you say that this request by Mr. Tweel occurred after the 12th, when you completed--the 12th of November I understand you completed these--how long after that would, in your best recollection--

A (Interposing) Approximately the 15th the information was completed, it would just be a guess, two or three weeks, a month.

Q At least a couple of weeks later, that would be around the 29th or November, around that time that Mr. Tweel mentioned it to you that you needed an appraisal or an

appraisal might be needed in order to see whether a loan was possible, is that your best recollection?

A I recall that Mr. Tweel mentioned something about an appraisal would be necessary, I would not want to say exactly when. I want to say that it was some time two, three weeks to a month perhaps after the brochures were completed.

Q Have you ever been inquired of by the FBI?

A No.

MR. SILETS: That's all.

MR. ALEXANDER: Mr. Selden S. McNeer, Jr.

THE COURT: May this gentleman be excused?

MR. ALEXANDER: Yes, we are through with him.

(Witness excused.)

MR. DALE: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. McNEER: I do.

MR. DALE: Have a seat, sir.

SELDEN S. McNEER, JR.,

a witness called at the instance of the Defendant Tweel, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. ALEXANDER:

Q Would you state your name to the Court and jury,

please?

A Selden S. McNeer, Jr.

Q How old are you, Mr. McNeer?

A Forty years old.

Q Where do you reside?

A In Huntington, West Virginia.

Q In what business or occupation are you engaged?

A I am an attorney at law, sir.

Q How long have you been an attorney in Huntington?

A Since 1950.

Q What is the name of your firm, Mr. McNeer?

A Campbell, McNeer, Woods, Bagby and Emerson.

Q State whether or not your firm has done legal work for Mr. Nicholas Tweel?

A Our firm has done work for Mr. Tweel since 1947 or '48.

Q Have you been active in the handling of various affairs for Mr. Tweel, various legal matters?

A I have, sir.

Q Mr. McNeer, state whether or not you were called upon for any type of title opinion or any work in connection with the purchase of the West Virginia Building and the Pritchard Hotel in Huntington, West Virginia?

A I was not called on specifically by Mr. Tweel for any of this work, however, I was called in consultation

with other partners in the firm who were working on this and the matter was discussed, particularly with respect to the state of the title to the West Virginia Building.

Q Do you know when these various conferences started or began?

A Our records indicate that they started approximately the first part of November, 1962.

Q State whether or not you did prepare legal opinions or legal memoranda in connection with the title to these properties?

A I did not prepare any legal opinions or memoranda, however, they were prepared in our office the first part of November, 1962, sir.

Q Do you have those with you as a part of your record?

A I do, sir.

Q State whether or not you had drawn or prepared any type of purchase agreement between Mr. Tweel and Mr. Alberding relative to the Pritchard Hotel?

A I did not prepare such an agreement, however, such an agreement was prepared by our office in the middle or latter part of November, 1962.

Q Do you have those records with you that I could see?

A I do, sir.

MR. ALEXANDER: If it please the Court, without taking up time to read these lengthy legal matters, I would like to have them admitted as a collective exhibit.

THE COURT: All right.

MR. HOOKER: We think these matters are completely beside the point and irrelevant, if your Honor please, some detailed legal opinions.

MR. ALEXANDER: Well, if we can just have them filed for identification purposes.

THE COURT: Marked for identification.

MR. DALE: It will be 170, if your Honor please.

(The legal papers referred to above were marked Defendant Tweel's Exhibit No. 170 for identification only.)

End Tk 31
Tk 32 fls.

MR. ALEXANDER: May it please the Court, some of the defense seem to think it ought to be filed as an exhibit rather than for identification and I would move that this be filed as an exhibit and passed to the jury.

THE COURT: Well, admit them for identification until the Court has an opportunity to examine them.

BY MR. ALEXANDER:

Q Mr. McNeer, did you ever hear of Jimmy Hoffa being mentioned by Mr. Tweel to you?

A No, sir, not until January or February, 1963, sir.

Q Well, was that about the time of his appearance before the Grand Jury in Nashville?

A That is correct, sir.

Q Did you ever hear the name of Allen Dorfman?

A No, sir.

Q Or Teamsters Union in connection mentioned by him?

A No, sir.

MR. ALEXANDER: That's all.

CROSS EXAMINATION

BY MR. NEAL:

Q Mr. McNeer, do you know what this case is about?

A Yes, sir.

Q About jury tampering?

A Yes, sir.

Q Alleged jury tampering?

A That's correct.

Q Do you know anything about the facts of the case?

A No, sir, only what I have been told by my client.

Q Well, I don't want to go into attorney-client.

You have no personal knowledge of the facts in this case at all?

A No, sir.

Q You are not testifying about that?

A No, sir.

MR. NEAL: No further questions for the government.

MR. SILETS: May I see the documents, please?

Thank you, your Honor. Has this been admitted in evidence?

THE COURT: Been admitted for identification.

End 31a
32 fls

MR. SILETS: May I cross examine, Your Honor?

THE COURT: Yes, sir.

CROSS EXAMINATION

BY MR. SILETS:

Q Now, Mr. McNeer, I ask the marshal to show you Exhibit 170, the documents you have produced here, and I direct to your attention specifically to the one entitled, "Memorandum of Conversation with Mr. Nicholas J. Tweel", and up in the corner are the initials SSM:cs and then the date, 11-28-62. Can you explain what those symbols means?

A Yes, the first three initials are the initials of the lawyer who dictated the memorandum. That happened to be my father. The second two initials are the initials of the secretary who did the work, that was Catherine Sturm. The date 11-28-62 is the date upon which this memorandum was typed up.

Q Now, was that prepared in the regular course of business of your law firm?

A Yes, they was.

Q And was it the regular course of business of your firm to make that kind of document?

A Yes, it is. Our secretaries are instructed to do so.

Q And according to the custom and practice of your firm, would that have been correct at the time it was so

recorded?

A Yes, sir.

MR. SILETS: Your Honor, I'm going to offer that document as being very pertinent and relevant because it indicates a conversation Mr. Tweel had with his attorney concerning these very subject matters on the following day after these telephone calls that the government has put in on November 27th between Mr. Dorfman and Mr. Tweel. It is relevant. Material. Pertinent and competent.

MR. HOOKER: We submit it is completely relevant, if Your Honor please. We are going in here if we are going into every conversation of titles and something about some business transaction, we will be here a month.

THE COURT: Well, I allow it to be filed for identification purposes until the Court can read it and inspect it.

MR. NEAL: I also point out to Your Honor, this is hearsay as a conversation between someone else and not this gentleman and the--

MR. SILETS: (Interposing) Not any more hearsay than the government putting in telephone records about people who they don't know anything about or people from the phone company don't know anything about. He testified according to the same questions Mr. Neal asked, the regular course of business.

THE COURT: I will pass on the matter later. Anything further?

MR. ALEXANDER: That is all we have.

THE COURT: May he be excused?

MR. SILETS: Mr. McNeer, just one further question.

MR. ALEXANDER: I would like to have one further question also.

BY MR. ALEXANDER:

Q Just one question, I believe your father is dead now?

A Yes, sir, he died on July 23rd of this year.

MR. SILETS: That is all.

THE COURT: Is there anything further?

MR. ALEXANDER: You mean of 1963?

THE WITNESS: 1963.

MR. ALEXANDER: That is all.

THE REPORTER: Your Honor, could the witness spell his secretary's name?

THE WITNESS: (Spelling) C-a-t-h-e-r-i-n-e Sturm. S-t-u-r-m.

THE COURT: He may be excused.

(Witness excused.)

MR. SILETS: Your Honor, could I point out one other matter in connection with this, this document regardless of the truth of the contents or the matters contained therein,

it is corroborative of Mr. Tweel's testimony that he has been consulting with his attorney and specifically that on the day following these two phone calls that the government has put into evidence he had a conversation with his lawyer about the very subject matter that Mr. Tweel said he was talking to Mr. Dorfman about.

THE COURT: All right.

MR. ALEXANDER: Call Mr. Grant Beckett.

THE CLERK: Raise your right hand, please? Do you solemnly swear that the evidence you give in this case shall be the truth, whole truth, nothing but the truth, so help you God?

THE WITNESS: Yes, sir.

THE CLERK: Have a seat.

ALLEN GRANT BECKETT,

a witness called at the instance of the Defendant Nicholas J. Tweel, having first been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. ALEXANDER:

Q Will you please sir, state your name and age and address to the jury?

A Allen Grant Beckett. Age 64. Address Huntington, West Virginia.

Q Mr. Beckett, in what business or profession are

you engaged?

A Banking.

Q What bank are you connected with?

A I'm president of the Huntington Trust and Savings Bank in Huntington, West Virginia.

Q What is your title?

A President.

End 32

32 A fol.

Q And how long have you been president of this bank?

A A little over 18 years.

Q Mr. Beckett, do you know the defendant, Nicholas J. Tweel, in this case?

A Yes, sir.

Q How long have you known him?

A Since he was born.

Q You have known him all of his life?

A All of his life.

Q Have you dealt with him in business matters since he attained his manhood?

A Yes, sir, soon after his honorable discharge from the United States Army, we started doing business with him and that could have been 1946.

Q Now, have you handled various loans, various matters for him?

A He has borrowed from us from time to time all during the time we have had the pleasure of doing business with him.

Q He mentioned that he had had an interest in Waterford Racetrack and also Continental Tobacco Company?

A We loaned him money for each of those ventures.

Q Now, state whether or not you ever had a conversation with Mr. Tweel relative to the purchase of the West

Virginia Building and the Pritchard Hotel Building in Huntington, West Virginia?

A In the late fall of 1942 he approached us, seeking money to finance --

Q (Interposing) Excuse me, was that 1952? Did you say that?

A If I did I am wrong, 1962, 10 years ago. Late fall of 1962 he approached us for funds with which to purchase the West Virginia Building in Huntington, West Virginia, and also to purchase the Pritchard Hotel in Huntington. He knew at the time that our bank represented funds of three of the larger life insurance companies in the United States.

Q What are those companies?

A Mutual Life of New York. Northwestern Mutual of Milwaukee. And Western and Southern of Cincinnati.

We are loan correspondents for those companies. We originate, we sell, and we service loans.

Q Now, was this financing discussed with you by Mr. Tweel?

A Discussed quite at length and it developed that the West Virginia Building was financable, that it would fit the loan pattern of any of the three life insurance companies represented by us. But it was impossible for us to arrange financing for the Pritchard Hotel.

Q Did you have any later discussion with Mr. Tweel

concerning the West Virginia Building?

A We, perhaps, disagreed on what he should pay for the building and I believe the owners rejected an offer. That was the extent of the transaction. If I remember correctly that all transpired within the calendar year of 1962.

Q Actually neither loan was made by your institution?

A No, sir.

MR. ALEXANDER: That is all.

CROSS EXAMINATION

BY MR. NEAL:

Q How are you, Mr. Beckett?

A Glad you turned on the nice weather. Thank you, sir.

Q It has been pretty nice.

A Yes, sir.

Q Do you know what this case is about, Mr. Beckett?

A I think so.

Q Have you read the papers?

A Yes, sir.

Q Do you have any personal knowledge of the facts?

A No, sir.

MR. NEAL: Thank you, Mr. Beckett.

THE WITNESS: Thank you, sir.

THE COURT: Just a moment, sir.

MR. ALEXANDER: That is all.

THE COURT: All right, you may be excused.

(Witness excused.)

THE WITNESS: Return to the back of the room and see what my buddies have to say?

THE COURT: Yes, sir.

THE WITNESS: Thank you.

MR. ALEXANDER: Call Mr. Thomas Harvey.

THE CLERK: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Have a seat.

THOMAS W. HARVEY,

a witness called at the instance of the Defendant Nicholas J. Tweel, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. ALEXANDER:

Q State your name and age and residence to the jury, please, sir.

A My name is Thomas W. Harvey. I am 45 years old. And I live in Chevvy Chase, Maryland.

Q I believe you are an attorney, are you not, Mr. Harvey?

A I am.

Q What is your position at the present time as an attorney?

A I am chief counsel of the Area Redevelopment Administration in Washington, D. C.

Q Now, what is the general business of the Area Redevelopment Administration? I'm sure you could write a book about it but just so very briefly so the jury will know what is the general nature of that agency.

A The Area Redevelopment Administration administers the recent so-called Depressed Areas Act passed by the Congress in which financial assistance is made available by way of loans and grants to those areas of the country which are not participating in the ordinary economic growth.

End 32a
32b fls

Q Mr. Harvey, state whether or not the Huntington, West Virginia, area is considered by the Congress as a depressed area?

A Yes, sir, Huntington, West Virginia, is one of the redevelopment areas, yes.

Q And does Huntington, West Virginia, qualify for loans through the Redevelopment Administration Area subject to the conditions being made of your agency?

A It does.

Q Mr. Harvey, do you know Mr. Nicholas Tweel?

A I do.

Q When did you first meet him or first talk with him?

A He and I were born in the same town. I have had a recognition of him. I have known his name and recognized him for, I suppose 20 years.

Q You are an old Huntington boy, is that right?

A I guess I am.

Q How long have you been gone from Huntington?

A Since June, 1961.

Q Mr. Harvey, state whether or not Mr. Tweel contacted you concerning certain business in connection with your agency in Washington, D. C.?

A He did.

Q Just explain to the jury what the nature of that

contact was and what business, if any, that you conducted with him?

A Mr. Tweel came to my office some time I believe more than a year ago. I believe in the year 1962. I cannot fix any more exact time on it. On the occasion of that visit he inquired generally about our program of loans as it might apply to a venture which he discussed with me at that time.

Q Now, this was some time in the year 1962?

A I believe that's correct.

Q Are you able to pinpoint it as to the season of the year, if not, a month? Or what time of the year it might have been?

A I am not.

Q Did he attempt to obtain a loan through the Area Redevelopment Administration or was that the purpose of his coming to see you?

A The purpose as far as he made known and according to his questions was to determine whether we might be in a position to consider whether we under our program we could give the kind of financial assistance he had in mind for this project. He did not make any application. He had other things to do first and we did not make any undertakings at that time but that he was going to do anything further, or we were going to do anything further. He was inquiring for information only.

End Tk 32B
Tk 33 fls.

Q Do you recollect which properties these were in Huntington?

A Yes.

Q Would you state those?

A It was the Pritchard Hotel.

Q The Pritchard Hotel?

A Yes.

Q Do you know whether or not a loan was ever made through the ARA, through your agency?

A No, I know that no loan was made.

Q No loan was made?

A I think no application was ever--

Q (Interposing) You said that certain things had to be done. Do you mean certain conditions met prior to his making an application?

A My recollection is that he was going to buy the hotel property, he had in mind buying it, purchasing the hotel property through some other arrangements and that he envisioned the possibility of a loan in order to make certain improvements, expansions and improvements of the facilities there to make it more of a resort type facility.

Q Mr. Harvey, did you ever hear Mr. Tweel mention the name of Jimmy Hoffa or Teamsters Union or Mr. Allen Dorfman or anyone in connection with this business?

A No, no.

MR. ALEXANDER: That's all.

CROSS EXAMINATION

BY MR. NEAL:

Q Mr. Harvey, were you--I am Jim Neal representing the government--were you subpoenaed to come down?

A I was.

Q Were you surprised when you got your subpoena?

MR. SILETS: Your Honor, that is not relevant.

MR. ALEXANDER: We object, think that's improper.

THE COURT: Sustained.

MR. NEAL: Very well, strike it.

BY MR. NEAL:

Q Mr. Harvey, do you know anything about the facts in this case, personal knowledge of the facts?

A None other than what I have--the matters I have testified to here.

Q Do you know anything about a jury tampering?

A No.

MR. SILETS: Your Honor.

Q Pardon me?

A No.

MR. SILETS: May that be stricken? That is Mr. Neal's allegation, it may be an allegation in the indictment but there isn't anything about jury tampering here.

BY MR. NEAL:

Q Do you know anything about alleged jury tampering?

A Pardon?

Q Alleged jury tampering?

A I have read in the paper what this trial is about.

Q Excuse me. Do you have any personal knowledge about it?

A No.

MR. GRADY: Your Honor, may I enter an objection for Mr. Tweel to that line of questioning? It's far outside of the scope of reasonable cross examination. If your Honor will just think you could ask all of the government witnesses these questions and they would have to answer as these witnesses are doing in the negative, it's not proper.

MR. NEAL: I don't think Mrs. Paschal and Mr. Carl Fields and some of them would answer that.

MR. BROWN: I object.

MR. ALEXANDER: We are going to have another argument.

THE COURT: Overrule the objection.

MR. HAGGERTY: Ask that the remarks of Mr. Neal be stricken and the jury instructed to disregard it.

THE COURT: Disregard remarks of counsel.

MR. NEAL: Your Honor, I am just cross examining to find out what relevancy this man has to the case, that's

all.

THE COURT: Well, proceed.

BY MR. NEAL:

Q Mr. Harvey, Mr. Tweel testified somebody was going to come in and substantiate him, I guess that you are not that witness.

MR. SCHIFFER: Object, that is highly improper.

MR. ALEXANDER: Move that be stricken.

THE COURT: Sustain the objection. Anything further of this witness, gentlemen? If not, you may be excused.

THE WITNESS: May I return to my home?

THE COURT: Yes, sir, you may be excused.

(Witness excused.)

MR. NEAL: Your Honor, if he is calling Mr. Alberding to testify about some of these additional matters I really fail to see the relevancy.

THE COURT: Well, I certainly can't rule upon the testimony before he testifies. Overrule your objection.

MR. DALE: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. ALBERDING: I do.

MR. DALE: Have a seat.

CHARLES ALBERDING,

a witness called at the instance of the Defendant Tweel, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. ALEXANDER:

Q Would you state your name, age, and place of residence, please?

A Charles Alberding. What else did you say, sir?

Q Your age.

A Sixty-three.

Q Sixty-three?

A And Chicago.

Tk 33 Tk 33A fls.

Q Mr. Alberding, what business are you engaged in?
A I am an engineer and hotel executive.
Q What is your hotel chain?
A Why, I have the Hermitage at Nashville.
Q What is the name of your chain?
A Peabody, Pritchard at West--, Allisonette.
Q Allisonette?
A Yes, sir.
Q Is that the name of the chain?
A Yes, sir.
Q Part of that chain you say is the Hermitage Hotel at Nashville?
A Peabody in Memphis, the Pritchard at Huntington, the Capitol Park Motel at Nashville.
Q Mr. Alberding, state whether or not you know the Defendant, Mr. Nicholas Tweel?
A Yes, sir.
Q When did you first meet Mr. Tweel?
A In the Summer and Fall of 1962.
Q Did you ever have any business with Mr. Tweel or any--
A (Interposing) Yes, sir.
Q State to the jury what that was.
A Well, my manager at the Pritchard Hotel told me that Mr.Tweel was interested in the possible purchase of

the Pritchard and he and I had several meetings in Huntington relating to a possible sale of the Pritchard or an interest therein to Mr. Tweel.

Q Did you ever get together?

A No, sir.

Q Was a written proposal submitted to you as a matter of fact by Mr. Tweel?

A Yes, sir.

Q You did not accept this?

A No, sir.

Q Did Mr. Tweel ever say to you that he was attempting to get ARA financing through the government for this hotel improvement project?

A Yes, he did, but that would be for improvements in the event that he was able to consummate a deal with me.

Q State whether or not sometime previous to that you and Mr. Tweel had discussed the possibility of purchasing a race track together or some deal in connection with Dade Park?

A That was subsequent thereto.

Q Is that the prospectus that you and Mr. Tweel discussed in connection with this property?

A Yes, I believe so.

Q Did you ever do any business on that as a matter of fact?

A No, sir.

Q You and Mr. Tweel together?

A No, sir.

Q But you did have some discussions and some business with him in connection with that?

A That's right.

MR. ALEXANDER: I would like that introduced, if it please Your Honor, marked as an exhibit.

MR. DALE: 171.

(The prospectus referred to above was marked Def. Tweel Exhibit No. 171 for identification only.)

MR. ALEXANDER: I'd like to have it passed to the jury.

MR. HOOKER: We think it's completely irrelevant, Your Honor, pictures of a race track and so on.

THE COURT: May the Court see what we are talking about? You mentioned something, Mr. Alberding, that this was subsequent to your conversation about the Pritchard Hotel. When were you discussing matters relating to the race track?

THE WITNESS: Oh, I'd say in the Spring of 1963.

THE COURT: Well, sustain the objection. Allow it to be filed for identification.

MR. ALEXANDER: I think that is all.

CROSS EXAMINATION

BY MR. NEAL:

Q Mr. Alberding, I am Jim Neal. Do you have any personal knowledge of the facts of this case?

A No.

THE COURT: All right, anything further of this witness, gentlemen?

MR. ALEXANDER: No.

THE COURT: All right, sir, you may be excused.

(Witness excused.)

MR. DALE: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. KINISON: I do.

MR. DALE: Have a seat, sir.

DONALD M. KINISON,

a witness called at the instance of the Defendant Tweel, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. ALEXANDER:

Q Will you state your name, age, and place of residence, sir?

A Donald M. Kinison, age 36; 532 Twentieth Street, Northwest, Washington, D. C.

End 33A

34 fol.

Q Mr. Kinison, I believe you are an attorney, are you not?

A That's correct.

Q What is your business or occupation in Washington, D. C.?

A At the present time I am counsel, one of the counsel for National Association for Life Underwriters.

Q Mr. Kinison, what background do you have in the insurance field? Would you tell the jury very briefly?

A From 1957 to 1961, April 1961, I was deputy or assistant to the commissioner of insurance, the insurance commissioner of the State of West Virginia.

From April 1961 until September 15, 1962, I served as counsel and secretary to West Virginia Life Insurance Company in Huntington, West Virginia. My residence then was in Charleston, West Virginia.

Q Mr. Kinison, would you state to the jury when you first met Mr. Tweel?

A Sometime in February, latter part of February or the early part of March, Mr. Tommy Cogar, T. A. Cogar --

Q (Interposing) What year was that?

A 1962.

Q Sometime in February or March 1962?

A Yes, sir, that's correct.

Q And in what connection did you meet him, what

was the occasion?

A September 1962, West Virginia Life, their controlling interest had been sold to the North Central Corporation in St. Paul, Minnesota. And Mr. Cogar who was then administrative vice president and treasurer and myself and a Mr. Roger O'Dell, we anticipated that the company eventually would be moved to Minnesota and we started looking around to try to find some backing for an insurance company.

Q In other words, you were interested in trying to get it financed, someone in West Virginia to keep it there? Is that correct?

A That is true. A new company.

Q Now, did you discuss this with Mr. Tweel?

A Yes, that was my first meeting with Mr. Tweel in the latter part of February or March, early part of March.

Q State whether or not as a result of that conversation that this business or a life insurance company was organized in the State of West Virginia.

A It was.

Q Do you know how much money was raised to organize this?

A 34,375.00.

Q When was that?

A It was deposited in July, on July 7th. 1962.

Q I believe as an attorney you organized the charter

of this new company? You prepared the charter?

A That's correct, sir.

Q What was the name of this new company?

A American Hemisphere Life Insurance Company.

Q Now, in connection with that business, Mr. Kinison, will you please state whether or not you ever had occasion to meet a Mr. Allen Dorfman?

A On October 12, Columbus Day.

Q October 12, what year?

A 1962.

Q 1962?

A Yes, sir. We held an organizational meeting, in the West Virginia Room of the Pritchard Hotel in Huntington, West Virginia. I was introduced at that time to a man by the name of Mr. Dorfman.

Q Was he interested in the organization of this new company?

A He, to the best of my knowledge, he was not, sir. He -- he was not a member of the board of directors or stockholder.

Q But he was at this meeting back on October 12, 1963 (sic)?

A Correct.

Q This was prior to any difficulties which you understood later came up in Nashville, I believe?

A Sir?

Q This was before any difficulties ever came up in Nashville, Tennessee, which I believe has been established was October 22, 1962?

A It was October 12, 1962.

MR. ALEXANDER: I think that is all.

CROSS EXAMINATION

BY MR. NEAL:

Q Mr. Kinison, isn't $34,000 a small amount for an insurance company?

A Yes, sir, this was the initial. Perhaps I should correct myself. We would have had to have organized and had $400,000 eventually.

Q What kind of business was the insurance company going to do? Do you know?

A We were going to do a monthly debit business. Mr. O'Dell had been formerly with Metropolitan Life with what is known as a debit collection and we anticipated that he could recruit the field force and get us started.

Q You were going to handle health and welfare insurance?

A Not welfare, sir.

Q Health insurance?

A Yes.

Q Accidents?

A Accident and sickness we call it.

Q Did you have any particular place you planned on getting your business?

A To get it? Sir?

Q Where were you going to get your business, insurance company business?

A Well, in West Virginia and then there were two other men that, Kalil and Kalil, had a large business and was state agents in Michigan.

Q Kalil and Kalil?

A Yes, sir.

Q That is a man from Detroit, Michigan, is it?

A Yes, sir.

Q That man is a police officer in Detroit, Michigan, isn't he?

A Not to my knowledge, sir.

Q Oh, he isn't? Isn't that man a good friend of the Defendant Dorfman, isn't he?

MR. SCHIFFER: Objected to. He said he doesn't know him. How is he going to answer that question?

THE COURT: Overruled.

BY MR. NEAL:

Q You met Mr. Kalil?

MR. SCHIFFER: Objected to, your Honor. Not a proper question.

Fwd 34
34a fls

THE COURT: Overruled.

BY MR. NEAL:

Q Don't you know Mr. Kalil is a long friend of--

MR. SCHIFFER: Object to it, object to the form of this question.

THE WITNESS: No, sir.

MR. SCHIFFER: Objected to, Your Honor. Under the guise of asking a question that he knows is an improper question. There comes a time when we must insist on some law and order in the courtroom.

THE COURT: Overruled.

BY MR. NEAL:

Q Don't you know--

MR. SCHIFFER: I object to the form of the question. He started out don't you know, that is highly improper. He is not asking him.

MR. NEAL: This is cross examination.

MR. SCHIFFER: Even on cross examination he is giving the witness the answer when he says don't you know. He knows it is improper.

THE COURT: Overrule the objection.

MR. SCHIFFER: We specifically except. Go ahead smile, Mr. Neal. I have got the time.

THE COURT: Mr. Silets, excuse me, Mr. Silets. Mr. Schiffer?

MR. SCHIFFER: He stands there and laughs, judge.

MR. NEAL: Your Honor, I don't think I was laughing, but it is better than crying.

MR. SCHIFFER: You will get to cry.

THE COURT: Mr. Schiffer.

MR. SCHIFFER: Sorry.

MR. NEAL: Don't answer until the Court rules on the question.

THE COURT: Are you through, Mr. Schiffer?

MR. SCHIFFER: Yes, sir. I made no objection to that question.

THE COURT: All right, proceed.

BY MR. NEAL:

Q Don't you know that Mr. Kalil is a long-time associate of the Defendant Hoffa?

A No, sir, I didn't.

Q Don't know that?

A No, sir.

Q Now, Mr. Kinison, do you know anything, do you have any personal knowledge other than what you might have read in the newspapers something like that, do you have any personal knowledge of the facts of this case?

MR. SILETS: Your Honor, I'm going to object to that. He has already testified to the facts and they are part of the case. So he had personal knowledge of something. Mr. Neal didn't object on direct examination.

THE COURT: Overrule the objection.

THE WITNESS: In April, I was subpoenaed down to Nashville and talked to two members, two gentlemen I understood were from the Justice Department and was explained--

BY MR. NEAL:

Q (Interposing) Did you have any personal knowledge about the facts of the case at that time?

A No.

Q And do you have any personal knowledge now?

MR. SILETS: Objection, Your Honor.

THE WITNESS: Other than what I read in the newspapers.

THE COURT: Overrulethe objection.

MR. NEAL: Pardon me?

THE COURT: Overrule the objection.

BY MR. NEAL:

Q You had no personal knowledge when you were called down there then. Is that correct?

A First in the middle of February, no, two gentlemen from the FBI came and spoke to me. And that is the first knowledge I had.

Q All right, when they spoke to you, did you have any personal, aside from newspapers, any personal knowledge of the facts of this case when they spoke to you?

A No, sir.

34A-4

Q Did you have any personal knowledge when you were called down to Nashville?

A No, I would say no.

Q Do you have any personal knowledge today?

MR. SILETS: Your Honor, objection.

MR. SCHIFFER: Can we have the date fixed, Your Honor?

THE COURT: Sustain the objection.

MR. NEAL: That is all.

MR. SILETS: Wait a minute, Mr. Alexander.

CROSS EXAMINATION

BY MR. SILETS:

Q Now, Mr. Kinison, did I understand it you were one of the organizers of American Hemisphere Life Insurance Company?

A That's correct.

Q Now, directing your attention to June 30, 1962, wasn't there a stock subscription agreement signed by a number of parties?

A Yes, sir.

Q Do you have a copy of that?

A I am not certain your date is correct. No, I do not.

THE CLERK: No. 172.

(The stock subscription agreement referred to above was marked for identification as No. 172.)

END 34A
35 fol.

Q Now, the marshal is going to show you this document. Do you see your signature on the last page?

A Yes, sir.

Q Now, that is a copy or the original of the stock subscription agreement, isn't it?

A That is.

Q Now, under the terms of that agreement half of the price for the subscription of the stock was to be paid in at the time of the signing of the agreement?

A That is correct.

Q And half of it was to be paid when the stock, when the lawyers had approved the registration statement with the Securities Exchange Commission?

A That is correct.

Q By that I gather that means so that the company could sell its stock to the public?

A That is correct.

Q Isn't that right?

A That is correct.

Q Now, on October 12th, Columbus Day, you had another meeting, isn't that right?

A That was the first organizational meeting.

Q At that time there was an election of officers and bylaws were adopted and so forth?

A (Witness moves head up and down.)

Q And that was pursuant to a prescribed agenda, is that correct?

A That is correct.

Q Now, do you have a copy of the minutes of the meeting?

A Yes.

Q Now, directing your attention to that, do you see that the name of Mr. Saul P. Schwartz as being a director being present?

A Yes.

Q Now, isn't it true Mr. Schwartz is a partner of Mr. Dorfman's?

A He was introduced as a partner.

Q As a matter of fact, Mr. Schwartz had invested some money and purchased some stock in the company?

A Yes, sir, Southwest Insurance Company.

Q Southwest Insurance Agency?

A Agency.

Q Now, wasn't it also discussed, although not part of the formal part of the meeting, that another company involving Mr. Dorfman, the Amalgamated Services, Inc., was to have an agreement with the corporation?

A No, sir.

Q You don't remember that?

A No.

Q Now, do you know whether the registration agreement was ever put through?

A With the Securities and Exchange Commission?

Q Yes.

A It was never filed.

Q It was never filed. There was a problem involved, was there?

A Well, it was to be prepared in January, we didn't have the underwriters, we never did get a firm agreement with the underwirters.

Q Do you know whether there was a problem about the allocation of the stock, people who owned the stock, too much in one hand, too much in Kalil and too much in the hands of Mr. Tweel?

A Mr. Zito handled that.

MR. SILETS: I think that's all.

THE COURT: All right.

MR. ALEXANDER: If it please your Honor, we have one more very short witness.

THE COURT: All right.

MR. ALEXANDER: From West Virginia, if I could finish with him I would finish with the West Virginia witnesses. Mr. Howard Cockerill.

THE COURT. All right. Call him.

(Witness excused.)

MR. DALE: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. COCKERILL: I do.

MR. DALE: Have a seat.

HOWARD COCKERILL,

a witness called at the instance of the Defendant Tweel, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. ALEXANDER:

Q Would you please state your name, your age and your address to the jury?

A I am Howard Cockerill; 5265 Pea Ridge Road, Huntington, West Virginia; 60 years old.

Q Mr. Cockerill, for the sake of the reporter would you spell your last name?

A (Spelling) C-o-c-k-e-r-i-l-l, Cockerill.

Q And in what business are you engaged?

A Food brokerage business primarily.

Q In Huntington, West Virginia.

A In Huntington.

Q How long have you been so engaged?

A Twenty-three years.

Q State whether or not you know the Defendant,

Nicholas Tweel, in this case?

A I do.

Q How long have you known him?

A Approximately eight to ten years.

Q As a matter of fact, have you invested in some interests that he has been interested in?

A I have.

Q What are those?

A The Continental Tobacco Company.

Q How long ago was that?

A Approximately six years ago, five or six years ago.

Q In what other business?

A The American Hemisphere Life Insurance Company.

Q Now, that is the life insurance company that was just testified about by the gentleman who preceded you on the stand, is that correct, the witness just before you?

A Yes, sir.

Q Were you a stockholder in that company?

A I was.

Q Were you a member of the board of directors?

A I was.

Q State whether or not you attended a meeting on October the 12th of 1962 at the Pritchard Hotel which has been described?

A I did.

Q Who was present, if you can remember?

A I have a transcript of that meeting, a paper. Do you want me to read them?

Q Just who was present?

A T. A. Cogar, Howard Cockerill, Stanley Evans, Felix Hage, Donald Kenison, James Kalil, Ronald O'Dell, Nicholas Tweel.

Q Was there Allen Dorfman present there?

A He was also there.

Q He was there. Did you meet Mr. Dorfman at that time?

A Yes, sir.

Q Is that the first time that you had met him?

A Yes, sir.

Q That was on October the 12th of 1962?

A Yes, sir.

Q Mr. Cockerill, state whether or not Mr. Jimmy Hoffa or the Teamsters Union were mentioned at this meeting or any other time?

A I do not recall that they was.

Q Did you ever see or meet with Mr. Allen Dorfman at any other time?

A No, sir.

Q That's the only time you ever saw him?

A Yes, sir.

Q He was there in connection with the organization of this insurance company?

A That is correct.

Q Do you have any present interest in the American Hemisphere Life Insurance Company?

A No, sir, it has been dissolved.

Q It has been dissolved?

A Yes, sir.

MR. ALEXANDER: That's all.

CROSS EXAMINATION

BY MR. NEAL:

Q Mr. Cockerill, you testified that Mr. Dorfman was there at that meeting on October 12, 1962. In connection with this insurance company, the man preceding you testified that, I believe that he had no part of that or he wasn't a stockholder in that. How was he there in connection with it?

End Tk 35
Tk 36 fls

A I am assuming that he was there as a visitor or spectator.

Q Visitor or spectator?

A Yes, sir.

Q I don't understand. You said he had a connection with the insurance company? You don't know whether he had any connection with it or not?

A No.

Q Pardon me?

A No.

Q He might have been there just visiting Mr. Tweel as far as you know?

A Could be.

Q Pardon me?

A Yes.

Q Mr. Cockerill, do you have any knowledge, personal knowledge, of the facts of this case?

MR. SILETS: Objection, your Honor.

THE COURT: Overrule the objection.

THE WITNESS: I don't follow the question.

BY MR. NEAL:

Q I mean the case on trial, do you have any personal knowledge of the case on trial?

A No, sir.

Q Pardon me?

A No, sir, only what I have seen in the papers.

MR. NEAL: That is all. That is all the questions the government has, your Honor.

MR. ALEXANDER: Just a moment. That is all.

THE COURT: All right, you may be excused, sir.

(Witness excused.)

THE COURT: At this time, ladies and gentlemen, we will excuse the jury. Report back at 9:00 o'clock in the morning. Observe the usual instructions. Do not discuss the case or allow anyone to talk with you about it. Be back at 9:00 o'clock in the morning.

(Thereupon, the jury of twelve and four alternates were excluded from the courtroom and the following proceedings in their absence were had, to-wit:)

THE COURT: Mr. Branstetter, you indicated that earlier this afternoon that maybe some previous memoranda would be of some assistance to the Court on the matter of the Grand Jury minutes. Have you had occasion yet to locate that or call the Court's attention to it?

MR. BRANSTETTER: May it please the Court, I have gone through my files that I have over here and I do not have it. I apparently have it in my hotel room. I will get there and take a hurried look and call the Clerk.

THE COURT: The Court will appreciate it.

MR. NEAL: One matter, I want to call the Court's

attention specifically to the allegations with respect to the Witness Partin here. I won't take the time to read the whole amount, but I would like to refer your Honor to the page 3624, the page cited by Mr. Brown, and ascertain for yourself the true facts.

THE COURT: All right.

MR. BROWN: Your Honor, Mr. Neal, did I understand him to say he didn't understand that when I read it into the record?

THE COURT: No. I understood him just to refer the Court to the same portion of the transcript that you referred to.

MR. BROWN: Page 3624 and 3625 where he was asked those specific question.

MR. NEAL: That is what I want the Court to read, yes.

MR. BROWN: And there are others throughout the transcript, your Honor, each attorney, at least three or four occasions.

THE COURT: All right. Anything else before we adjourn? If not, let's adjourn court until 9:00 o'clock tomorrow morning.

(Thereupon, at 4:38 o'clock, p.m., court was adjourned until 9:00 a.m., February 18, 1964.)

End 36

REPORTER'S CERTIFICATE

I, Fred B. Downing, Official Court Reporter for the United States District Court, for the Eastern District of Tennessee, Southern Division, at Chattanooga, Tennessee hereby certify that Richard Smith and John E. Hamlin, court reporters, in accordance with stipulation of counsel for the parties filed in this case, recorded by machine shorthand the proceedings had in open court in the above styled case on February 17, 1964; and that said proceedings were reduced to typewriting under my supervision; and that the foregoing transcript is a true and correct transcript of the said proceedings to the best of my knowledge.

This the 17th day of February, 1964

Fred B. Downing

Official Court Reporter

IN THE DISTRICT COURT OF THE UNITED STATES

EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

Buffalino

UNITED STATES OF AMERICA, :
:
Plaintiff, :
:
vs. : [redacted]
: NO. 11,989
JAMES R. HOFFA, ET AL, :
:
Defendants. :

Testimony of Ewing King

Date: February 20, 1964

Chattanooga, Tennessee

Before: Honorable Frank W. Wilson, Judge

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TRIAL EXHIBITS

NUMBER	DESCRIPTION	For Ident.	In Evidence
191	NLRB Documents		6319
195	Ben West statement	6483	
196	Sealed envelope dated 10-8-62	6518	
197	Sealed envelope dated 10-18-62	6518	
154	Sealed memorandum on funds		6599

TK 1
EW 1

TWENTY-FOURTH DAY OF TRIAL

9:00 O'Clock A.M.
February 20, 1964

(Thereupon, pursuant to adjournment from February 19, 1964, court was in session.)

(A jury of 12 and 4 alternates remained excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

THE COURT: Gentlemen, a written motion to strike the testimony of Mr. Partin was filed on behalf of all of the defendants on February the 19th, 1964, upon the ground that the witness was not required to respond to cross examination. The Court is of the opinion that that motion should be overruled.

Gentlemen, the Court has further considered the subpoena duces tecum to Mr. Pitcher.

MR. HAGGERTY: I was to be heard on that this morning, your Honor.

THE COURT: Yes, sir. Mr. Haggerty, I will be glad to hear you but I can't, for the life of me, Mr. Haggerty, see how this subpoena can be salvaged.

This subpoena asks first that he bring "Any and all written statements of Edward G. Partin to you or to any of your subordinates, either unsigned or signed or otherwise adopted or approved by Edward G. Partin."

1 - 2

MR. HAGGERTY: That has been eliminated, if your Honor please.

THE COURT: It further proceeds to say, "Produce all notes, memoranda, reports and recordings of meetings with Edward G. Partin and others from August of '62 to December of '62."

It further provides to say, "And all records of arrests, local, state and federal reports and investigations, files regarding Edward G. Partin."

The Court is of the opinion that that subpoena is entirely too broad. It relates to matters that could not possibly be pertinent to this hearing and that no amendment without completely rewriting the subpoena no amendment of it could cure it.

It is the opinion of the Court that that subpoena should be quashed.

Now, I don't see why that you might not get hold of Mr. Pitcher and Mr. Daniels and by agreement, they have indicated they are willing to bring anything relevant to the matter, by agreement work out for Mr. Daniels to bring back any pertinent matter that you wish.

If not, just issue a subpoena but issuing these extremely broad subpoenas that ask for everything that anyone has ever said at any time just is an improper use of the subpoena in the opinion of the Court.

End Tk 1
Tk 2 fls.

MR. HAGGERTY: May it please the Court, I don't only desire Mr. Daniels as a witness to testify orally, this is a subpoena duces tecum your Honor has quashed.

THE COURT: Yes, sir.

MR. HAGGERTY: I also desire to orally examine Mr. Pitcher.

THE COURT: All right, sir; well, get a proper subpoena then and get it served properly. But the Court cannot re-write all of these subpoenas. You issue these subpoenas and ask them to bring everything conceivable from apparently the beginning of time.

MR. HAGGERTY: No, your Honor. I have requested my new subpoena as to that --

THE COURT: (Interposing) I have only before me, Mr. Haggerty, the subpoena that was served.

MR. HAGGERTY: Well, would your Honor like to see the proposed subpoena?

THE COURT: Well, no, sir. It would serve no purpose to see the proposed subpoena. Just draft them in the order that you know they are supposed to be drafted.

MR. HAGGERTY: Your Honor, there is a matter in reference to witnesses; Mr. Pitcher is engaged as I understand in a trial of a capital offense.

THE COURT: Yes, sir.

MR. HAGGERTY: Mr. Daniels, I understand, is an

important witness in that case. Mr. LaCoure, the United States District Attorney at New Orleans, I was on the telephone with him. He is subpoenaed as a witness. And Mr. Grady, his Assistant United States District Attorney, he tells me that because of his work condition that he cannot be here or Mr. Grady present until Monday. Now I am inquiring of your Honor, I don't know how the proofs are going to proceed, but we are coming towards the termination of the defense. I will ask your Honor at this time if it would be possible to put Mr. LaCoure, Mr. Grady, Mr. Pitcher on the stand then on Monday?

THE COURT: Well, the Court certainly will cooperate in making the witnesses available. And making time for them to testify. If necessary in order to get them here, the Court will call any court anywhere, Baton Rouge or anywhere else, and ask that court for its cooperation, too, and ask the witnesses for their cooperation. And certainly the Court will cooperate with counsel in doing that, Mr. Haggerty.

MR. HAGGERTY: Well, Mr. LaCoure's position is that he is busily engaged and asked if I would take up with the Court, would it be possible for him to be here Monday. That is true likewise of Mr. Grady, an Assistant United States District Attorney. Now I would like to know --

THE COURT: (Interposing) I wouldn't know exactly how to make a ruling on that at this time. I think if

we can proceed further today and --

MR. HAGGERTY: (Interposing) Well, we can proceed further today and probably further tomorrow. But it may be that we do not have enough witnesses to run until 4:30. That is what I am calling to your Honor's attention.

THE COURT: All right.

MR. HAGGERTY: I don't want to be boxed in, neither do I --

THE COURT: (Interposing) You won't, Mr. Haggerty. The Court will not deprive you certainly of having the right to have your witnesses heard. And we will either arrange to get them here or arrange to give you time to get them here.

MR. HAGGERTY: Your Honor, there is another matter.

MR. NEAL: May I say something in respect to that?

MR. HAGGERTY: Yes.

MR. NEAL: I don't want to dispute Mr. Haggerty. Perhaps there is some misunderstanding, but Mr. LaCoure called me last night and indicated that he could be on his way today if you insisted.

MR. HAGGERTY: I told him he would just be here today without being put on the stand.

MR. NEAL: I told him that you might want him Friday. He said, "I guess I'll be on my way."

MR. HAGGERTY: Is he on his way?

MR. NEAL: No, he said he would call you and see what you wanted.

MR. HAGGERTY: I talked with him probably earlier in the evening than you did.

MR. NEAL: I don't know. I talked with him last night and he said he could be on the way if you said so.

End 2
3 fls

MR. HAGGERTY: Well, I will leave it up to the Court. I don't know, I only know what I represented to the Court.

MR. NEAL: Well, I think you ought to have him here.

THE COURT: If you need him here tomorrow let's have him here tomorrow then.

MR. HAGGERTY: Very well, Your Honor. There is a matter that I mentioned without impudence or arrogance but I call it to Your Honor's attention because I think perhaps Your Honor is oblivious of it.

THE COURT: All right.

MR. HAGGERTY: During the cross examination of Mr. Partin, despite the many requests for Your Honor to admonish Mr. Partin and have him answer the question, Your Honor very lightly admonished Mr. Partin.

Now that the defense is putting in its defense Your Honor has on three occasions rather severly admonished defense witnesses. We do not think this is anything but an oversight on Your Honor's part but we ask Your Honor that our witnesses be accorded the same treatment as the government witnesses in a court of justice.

THE COURT: Yes, sir, Mr. Haggerty, you are entitled to that.

MR. SCHIFFER: I should like to draw a matter to

Your Honor's attention. Mr. Fred Shobe has been around the courthouse yesterday the whole day after he left the court-room and in the corridor he has been subjected to some rather violent talk and embarrassment and I wonder if Your Honor could to overcome that situation it would not be within the Court's jurisdiction to assign a marshal outside the corridor for the protection of Mr. Shobe and he is a witness here.

THE COURT: Gentlemen, I assume that all witnesses will be treated with respect and treated properly.

These are matters you bring to my attention and I don't know of any action I can take upon them.

Last evening you brought to my attention about Mrs. Partin and her not being treated properly. I called Judge Gordon West and he checked on the matter and later reported back to me that he could find no basis whatsoever for that statement.

If you gentlemen--

MR. SCHIFFER: (Interposing) In the case of Mr. Shobe he is here in the courthouse, Your Honor, and he certainly is a ward of the court. As a witness he is still under subpoena and I just wanted to make certain after he made the complaint that I drew it to Your Honor's attention.

THE COURT: The Court will expect everyone to abide by the law and the Court will also expect that

representations in this respect to the Court be made on the basis of knowledge.

MR. SCHIFFER: Well, I can assure Your Honor I am making this not of my own knowledge, the witness himself has complained. I think if a man is killed out in the corridor that it will be the responsibility not of me but of whatever power there may be that resides in this court to protect the witness.

Now, there is no question about Shobe being antagonistic now to the government, he has so testified, and I think that they want to reap some kind of retribution.

THE COURT: The Court will expect everyone to be treated lawfully and properly and that includes the witness Shobe.

MR. SCHIFFER: I ask that a marshal be assigned to him in the hall to make sure he is not assaulted, not embarrassed.

THE COURT: The marshal's office will take appropriate steps to see that no witness is in any way mistreated.

MR. SILETS: Your Honor--

THE COURT: (Interposing) The request on the behalf of the Defendant Tweel for the FBI reports should be overruled.

Yes, sir, Mr. Silets.

3-4

MR. SILETS: Your Honor, the Court will recall the other day the government turned over some six to ten thousand telephone exhibits relating to parties other than the defendants themselves. We have had an attorney go through those documents, and especially go through those of the Andrew Jackson Hotel for the period in question and precisely to inquire and examine and see if he could locate all of the phone calls, long distance calls made by Mr. Partin.

Now, from the exhibits 94, 98 through 107, which are the phone records of Mr. Partin, there is a total of about 108 long distance phone calls. He, our representative, Mr. Gillis, has been able to locate only about 72 toll tickets with about another 10 in evidence. That means there is anywhere from 20 to 25 toll tickets that are missing and we ask the Court to direct the government to turn over any additional toll tickets that they may have in their possession at the moment.

THE COURT: All right. Does the government have any additional toll tickets?

MR. NEAL: No, Your Honor. We have witnesses who will take the stand and so testify if the Court or defense want. We have turned over all--

MR. SILETS: (Interposing) We have got a list of what has been turned over and if the government seeks to

introduce additional toll tickets we will be able to discover that.

THE COURT: Gentlemen, there have been memoranda filed with regard to a subpoena served on the government but the Court has been unable to find a copy of that subpoena. Could the Court be provided with a copy of the subpoena? That is a subpoena, I believe, Mr. Silets, that you referred to in your argument just before we adjourned last night.

MR. SILETS: Which we served on Mr. Neal, Your Honor?

THE COURT: Yes, sir. The Court does not have a copy and has been unable to find a copy.

MR. NEAL: I will get a copy, Your Honor.

MR. DALE: It's in the court file, Your Honor.

THE COURT: I looked in the court file and I couldn't find it. Maybe I overlooked it.

MR. DALE: Well, it is supposed to be.

THE COURT: Well, see if you can find another copy for me and I will make a note of that.

MR. REDDY: We are sending for one, Your Honor.

MR. NEAL: It should be here momentarily.

THE COURT: Well, let's call the next witness and proceed.

MR. SCHIFFER: Your Honor, I have Mr. Shobe on testimony.

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THE COURT: In regard to Mr. Shobe's testimony I am still studying his testimony and I will make some announcement on that as soon as I have finished my study.

MR. SCHIFFER: May we reserve that then, Your Honor?

THE COURT: Yes, sir.

MR. NEAL: I have a copy, a copy of the subpoena on me; in addition to the response previously made I am preparing that affidavit and I will file a response.

THE COURT: Well, gentlemen, this should be filed for the court file and I am certain that there is not in the court file a complete copy, at any rate, of this subpoena, if there is any copy of it at all there is only the face sheet and not the attachment.

End 3

Tk 4 fol.

TK 4
EW 1

MR. SILETS: That is an oversight, your Honor. Pure inadvertence.

THE COURT: Well, file that copy then in the court record.

MR. HUTCHESON: If your Honor please, does your Honor want to take up any matter relating to the subpoena on the Witness Bennett?

THE COURT: No, sir. As I understand, that is a matter for you gentlemen to work out among yourselves.

MR. HUTCHESON: Then I would like to advise the Court that I am going back to my office and Mr. Berke can find me there.

THE COURT: All right. Now, then--

MR. ALEXANDER: (Interposing) Agreed corrections, your Honor.

MR. HAGGERTY: May it please the Court, there are other motions pending to my recollection and that was a motion for production which was not answered by the government. And in addition there was a motion--these were both filed day before yesterday.

There was a further motion that the government be required to produce all records, records of recordings, made by any electrical device or otherwise whether or not they were made for the use of a beep signal or whether or not the government classifies them legal in this determination

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made by production with the Court.

We have no response to that.

MR. NEAL: A response has been filed to it. I don't know why you haven't had it. It has been served on you.

MR. HAGGERTY: It doesn't answer this, Mr. Neal.

MR. NEAL: The motion I am familiar with, the motion for production, it answers it.

MR. HAGGERTY: Well, I ask your Honor to examine both motions and make a ruling.

MR. NEAL: Fine.

THE COURT: Well, gentlemen, I am aware of the fact and I have read everything that has been filed and I have not been able to rule upon that. The Court has been staying up until almost midnight every night trying to read all of these motions and read the record and so forth. And I will act on them just as promptly as I can.

MR. NEAL: As a matter of fact, this has been filed.

THE COURT: If there is any further response it should certainly be filed.

MR. NEAL: And they made a response to our response, if I remember correctly. We haven't made a response to their response to our response.

MR. BERKE: You should do so.

MR. NEAL: Do you mean you want a response to our response to your response?

MR. HAGGERTY: Certainly, when we raise an issue, we do.

MR. NEAL: The Court has got your motion, our response, and your response, and it has got to end somewhere.

MR. HAGGERTY: You are a little weak on your responses, Mr. Neal.

MR. NEAL: Maybe you think so, but that is not your decision.

MR. HAGGERTY: May it please the Court, I have here a memoranda too, sir, filed with the report in reference to the government's brief that was filed last evening. On the government's memoranda of law and the admissibility of extrinsic evidence relating to collateral matters.

THE COURT: All right, sir. All right, gentlemen, had we completed with the witness, Mr. Fitzsimmons?

MR. NEAL: Your Honor, the cross examination is completed. I don't know about the redirect.

MR. BRANSTETTER: Yes, your Honor.

THE COURT: Well, call the next witness and call the jury.

MR. BRANSTETTER: Mr. Winstead.

THE CLERK: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this

case shall be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Have a seat, sir.

(Thereupon, the jury of 12 and 4 alternates were brought into the courtroom and in their presence the following proceedings were had, to-wit:)

THE COURT: All right, let's proceed.

MARION M. WINSTEAD,

a witness called at the instance of the Defendant Larry Campbell, having previously been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BRANSTETTER:

Q Would you state your full name, please?

A Marion M. Winstead.

THE COURT: Sorry, sir, I didn't get your name.

THE WITNESS: Marion M. Winstead.

BY MR. BRANSTETTER:

Q Where do you live, Mr. Winstead?

A Louisville, Kentucky.

Q And what do you do?

A I am secretary-treasurer of Local 89.

Q Local 89 of the Teamsters Union in Louisville, Kentucky?

A Yes, sir.

Q How long have you been such secretary-treasurer?

A I was elected in 1955.

Q Have you served continuously since that time?

A Yes, sir.

Q Do you know Larry Campbell?

A Yes, sir.

Q Whether or not Larry Campbell was in the jurisdiction of your local or in your local area in Louisville during the fall of 1962?

A Yes, sir, he was.

Q Do you remember what months and approximately what date he came to Louisville, Kentucky?

A The latter part of October and November.

Q Did he report to your local or to you when he arrived in Louisville, Kentucky, or some time after arrival in Louisville?

A He came to the local union in October. I would say that he did probably report then.

Q Did he then talk to you on one or more occasions after the first time that he came to the local union there?

A Yes, sir, he did.

Q Did you know or have knowledge of his purpose there?

A Yes, sir.

Q What was that purpose?

A That was to assist us in contacting the Negro workers at the General Electric plant.

Q I hand you here what has been previously marked for identification as Exhibit No. 191 and ask you if you are familiar with--that is a collective exhibit, I will ask you what the first page consists of?

A This is a letter that I sent to Mr. John C. Getrel, who is the Regional Director of the National Labor Relations Board in Cincinnati.

Q What is the date of that letter?

A October 25, 1962.

Q Would you read that letter?

(Reading by the witness.)

"Dear Sir: Enclosed please find petition signed and filled out for representation of the General Electric Company Appliance Part, Mutual, Kentucky, by the General Drivers, Warehousemen and Helpers Local Union 89. Also enclosed find 2,981 signed application cards along with a list of the names. Thanking you for your cooperation, I remain, Very truly yours, Marion Winstead, Secretary-Treasurer, General Drivers Local 89. Enclosures 2,987."

Let me ask you, Mr. Winstead, if you have seen these two boxes of cards?

A Yes, sir.

Q I will ask you whether or not these are the cards that were signed by the employees referred to in that correspondence?

A Yes, sir.

End Tk 4
Tk 5 fls.

Q I will hand you pulled from the two boxes here one card and ask you if they are all the same type except the signatures or names of the individuals or the written material on them with reference to addresses?

A Yes, sir.

Q And I will ask you whether or not you actually enclosed the 2,900-odd cards that you just read from that letter to the National Labor Relations Board on that date?

A I believe I sent those up by someone else or separately, I couldn't mail them.

Q You couldn't mail them but they were delivered to the National Labor Relations Board Regional Office to be designated there?

A Yes, that is correct.

Q Will you state what the next piece of paper there is? Just turn it over. Would you state what that is?

A This is a letter dated on the same day to Mr. D. L. Thornson of the General Electric Company, Appliance Department, Buechel, Kentucky, notifying him.

Q What is it you notified him of, the filing of the petition, in substance?

A Would you like for me to read the letter?

Q Yes, if you would.

A "Dear Sir:

"This is to officially notify you that this

local union has now filed a petition with the National Labor Relations Board seeking to represent production, maintenance, warehouse employees, among other employees now represented by Local 761, IUE. If a meeting is desired to discuss this matter, we are available at your convenience.

"Very truly yours, Marion Winstead, Secretary and Treasurer, General Drivers Local 89."

Q Can you identify the next piece of paper in this collective exhibit?

A Yes, sir, this is a petition filed by the National Labor Relations Board setting forth the usual information required by the Board.

Q Could you identify the next piece of paper in the collective exhibit you have, please?

A That is a letter back to the local union from the National Labor Relations Board Regional Office in Cincinnati, Ohio.

Q What is the date of that letter?

A November 5th, 1962.

Q Can you identify the next piece of paper that you have there? Turn it over.

A The next one is copies of that letter being sent to others.

Q All right. Then the next one?

A The next one is from Washington, D. C., from

the National Labor Relations Board.

Q Does it relate to the Louisville situation in the application for representation previously filed?

A Yes, sir.

Q And what is the date of that letter?

A December 14th, 1962.

Q Is that the last letter that you have with reference to the correspondence with the National Labor Relations Board dealing with this matter?

A In this instance?

Q In 1962?

A Yes, sir.

MR. BRANSTETTER: I would like to introduce Exhibit 191 in evidence.

THE COURT: All right.

MR. HOOKER: We think this is completely irrelevant, if your Honor please, immaterial to any issue in the case.

THE COURT: Allow it to be introduced.

(The documents previously marked Defendant Campbell's Exhibit No. 191 for identification were received in evidence.)

BY MR. BRANSTETTER:

Q I will ask you if that the last time that Larry Campbell was in Louisville was not when he left there on November 30th, 1962, in connection with this?

A The latter part of November.

Q The latter part of November?

A Yes.

Q You did not see him in Louisville after November, 1962?

A No, sir, I am sure I didn't.

MR. BRANSTETTER: You may ask him.

MR. HOOKER: No questions.

MR. BRANSTETTER: Come down.

MR. SCHIFFER: May we have the number of the exhibit, your Honor?

THE COURT: Exhibit No. 191.

MR. SCHIFFER: Thank you.

MR. BRANSTETTER: I would like to pass the Exhibit No. 191 to the jury, may it please the Court.

(Witness excused.)

MR. BRANSTETTER: May it please the Court, we have some witnesses that will be of an impeaching character; we would like to reserve on those at this time because some of them are not here.

THE COURT: All right. Proceed to the next witness.

MR. NEAL: Did you say you wanted this handed to the jury?

MR. BRANSTETTER: Yes.

MR. NEAL: Yes, I would like for the jury to look at --

THE COURT: (Interposing) Just hand it to the jury.

MR. NEAL: Very well.

MR. DALE: Raise your right hand, please, sir. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, nothing but the truth, so help you God?

MR. KING: Yes, I do.

MR. DALE: Have a seat, sir.

THE COURT: All right.

EWING KING,

a defendant, called as a witness in his own behalf, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BROWN:

Q You are Ewing King?

A Yes, I am.

Q Where were you born and raised, Ewing?

A In Williamson County, in and around Franklin, Tennessee.

Q Were you raised on a farm?

A Yes, sir.

Q What type or kind of farm was it?

A Well, you might say it was a poor hill farm.

Q What were you raising there mostly?

A Yes, sir.

Q What did you say you raised mostly on this farm?

A Oh, just the regular run of tobacco and corn and things of that sort.

Q When did you leave Williamson County?

A I went into the CC Camp in the latter part of '34, I believe, and then I returned to Williamson County again and stayed until around 1944.

Q And then where did you go to work?

A I went to work for Super Service Motor Freight Lines in Nashville, Tennessee.

Q In what capacity?

A As a truck driver.

Q Over the road or city?

A Over the road running between Nashville, New York, and the eastern part of the United States.

Q How long did you stay on that job, Ewing?

A Until January of 1953.

Q Are you married?

A Yes, sir.

Q How many children do you have?

A I have five children and three stepchildren.

Q How many are at home?

A Five.

Q What are their ages?

A They range from twenty-four down to eight years old, my youngest kid is eight and the oldest one twenty-four.

Q You say five of them are still at home?

A Yes, sir.

Q Where were you educated, Ewing?

A I went to the public schools at Williamson County and finished high school at Hillsboro, Tennessee, out of Franklin.

Q Where do you presently live?

THE COURT: May I suggest we address all witnesses by their proper name?

MR. BROWN: I am sorry, your Honor.

BY MR. BROWN:

Q Where do you presently live, Mr. King?

A I live at 112 Benson Avenue, Nashville, Tennessee, or Donaldson, just out of Nashville.

Q How long have you lived there?

A Approximately 16 months.

Q What type of work have you done since you left the farm with the exception of the CC and the truck driving?

A I worked for the union, I started work as a business agent in 1953, January of '53, as a business agent

for the Teamsters Local 327 and Mr. Don Vestal and worked there until the last part of March 1959.

Q How long were you business agent for 327 all told?

A Well, I was business agent six years and two months.

Q When were you first elected business agent or president of that local?

A December of 1960, sir.

Q Are you employed at the present?

A No, sir.

Q Other than being in court, do you have a job?

A No, sir, I am not.

Q Ewing, during the time that you were -- I'm sorry, Mr. King, during the time that you were driving for Super Service and during this time that you were working for the local union, were you engaged in any other business on the side?

A No, sir, I was not.

Q Did you buy and sell automobiles quite regularly?

A Only for my own use, Mr. Brown. I have always been all of my life quite in desire of a good automobile and if I saw one I would trade for it.

Q Jockey a lot of cars in that fashion?

A Yes, sir.

Q During the months of October, November, and December, were you business agent for the Nashville local?

A Sir?

Q During the months of October, November, and December of 1962, I am sorry, I didn't tell you the year, were you business agent for Local 327?

A Yes, I was president of the local during that period.

Q Do you recall the period the Commercial Carrier and Hoffa trial was going on in Nashville, Tennessee?

A Yes, I do.

Q Were you around the courthouse during this trial?

A Yes, almost every day.

Q What portion of the day or what portion of your time was spent at the courthouse?

A Up until 1:00 in the afternoon when court adjourned.

Q And after you would leave court usually what would you do then, Mr. King?

A Oh, I would always generally went straight to my office to catch up on my phone calls and work that would be piling up on me for the day.

Q Now, at this time I believe you stated you were president or business agent of Local 327 and in that capacity

did you have occasion to drive Mr. Hoffa or any of his lawyers or did you have duties or did you perform any services in that regard?

A Well, I had no duties but I did perform services of trying to make available the automobiles in the mornings for Mr. Hoffa or whoever might be wanting to go to court by going to the hotel and picking them up.

End 5
6 fls

Q They have introduced a picture showing -I believe you saw it when it was originally introduced, showing you and Mr. Hoffa at the airport; is that when you met Mr. Hoffa when he arrived at Nashville?

A Yes, sir. Yes, sir.

Q Where did you take him?

A I took him to the hotel.

Q That picture, does it have any meaning other than that to you?

A No, sir, it does not.

MR. NEAL: Objection, Your Honor.

BY MR. BROWN:

Q After you returned Mr. Hoffa and his lawyer to the hotel, what, if anything, did you usually do in the day, Ewing? Mr. King, excuse me.

A Mr. Brown, to the best of my recollection if I ever took Mr. Hoffa or any of the party to the hotel after court it would have only been a very few times and would have only been to the door and let them out because it was raining or something of that nature. I never went to the hotel after court with the gentlemen.

Q During this period how much time would you say your best estimate as to how much time you spent with Mr. Hoffa and his lawyers at their headquarters in the hotel?

A Well, as I have said, in the mornings Mr. Brown,

I would go to the hotel and sometimes I would have a cup of coffee, say, five or six or seven or eight minutes, then we would go on to court. And then in the evenings after I had finished my work load, I normally would return back to the hotel and stay an hour, thirty minutes, up to a couple of hours.

Q Did you often have occasion to eat with Mr. Hoffa and his group?

A No, sir, I did not.

Q Did you ever go tc O'Brien's Beefery with any group that included Mr. Hoffa?

A No, sir, and I don't even know where O'Brien's Beefery is.

Q Did you know Edward Partin prior to the trial in Nashville?

A I did not. I may have seen him around a convention or some union meeting but I did not know Mr. Partin.

Q Was your Local 327 even in the same conference as Mr. Partin's?

A No, sir, we are affiliated with the Southeastern Conference and his local was affiliated with the Southwestern Conference.

Q When did you first meet Partin if you remember?

A In Nashville, I do not remember whether he introduced himself, but this was my first meeting of him to

know what he was or what his duties were.

Q That was the first occasion you had to meet him?

A In Nashville, yes, sir.

Q Did you have any conversations with him during the trial?

A Brief ones, yes, sir.

Q What, if you remember, were the topics of conversation on such occasions, these brief ones that you had?

A Well, it was normally in the line of one day I went to pick up a tire with him for his automobile. And on this occasion Mr. Partin continued to tell me about his financial problems that he had been involved in in his local union. He also advised me that he knew of my troubles of my problems of operation in Nashville. Was offering assistance on how I could correct those things. Furthermore, he told me, well, he continued to talk to me all the time about himself and about the things he had been involved in including--,

MR. NEAL: Objection, Your Honor.

THE WITNESS: The Negro girl that he raped in--

MR. HOOKER: (Interposing) We object, Your Honor.

THE WITNESS: Mississippi.

MR. HOOKER: We except to that.

THE COURT: Sustain the exception. Disregard that statement of the witness.

BY MR. BROWN:

Q You say he offered you assistance there in Nashville, in what respect did he offer you assistance?

A Well, along the lines, Mr. Brown, that he knew how, what the answers were and the only way that you could take care of them was eliminate the people that was giving you the problems. Such as eliminating, he called the name himself, Mr. Vestal, who he figured was my problem.

Q Was he a previous business agent of Local 327?

A I had defeated him in 1960, yes, sir.

Q Did you have occasion to be around Partin much of the time while he was there and you were there in Nashville?

A No, sir, I did not, Mr. Brown. This occasion of going to the tire store with him was the longest time I was ever in his presence and that was possibly an hour.

Q Do you remember having any conversation with Partin or in Partin's presence during the selection of a jury in Nashville in the Hoffa trial, Commercial Carriers trial?

A No, I do not remember him being present.

Q Specifically, Mr. King, did you ever discuss a patrolman by the name of James Paschal with Partin or in Partin's presence?

A I most certainly did not.

Q Did you ever discuss a lady juror named Paschal

with Partin?

A No, sir.

Q Now, you heard Mr. Partin testify that Mr. Hoffa was on you constantly for not getting this patrolman. Is that true?

A That is absolutely false.

Q Do you remember making any trips with Partin during his stay or during the trial in Nashville?

A Yes, Mr. Brown, as I have said I went to McDowell General Tire with him to pick up a tire for his automobile.

Q Is that the occasion you spoke of a moment ago?

A Yes, it is.

Q Have you ever talked with Partin about any of the people who have testified here at this trial?

A No.

Q Did you ever have any conversation with Mr. Partin as regards "Mutt" Pitts in any way?

A No, sir, I did not.

Q Now, Mr. King, during the trial in Nashville, the Commercial Carriers-Hoffa trial, what were the circumstances insofar as surveillance of you yourself?

A Well, I think from the very first day that I picked Mr.--

MR. HOOKER: (Interposing) We object to that, if

Your Honor please. I don't see that that has any materiality in this case.

MR. BROWN: Your Honor, we're laying the groundwork. Of course, it is, we feel it is competent because agent--

THE COURT: (Interposing) Proceed.

THE WITNESS: Well, I was under continued surveillance all during the trial of Mr. Hoffa in Nashville.

BY MR. BROWN:

Q How many agents would you say at a time were usually attending you?

A Sometimes up to as much as four cars going home with me and two people to a car.

Q Now, prior to November 18, 1962, did you know Oscar "Mutt" Pitts?

A Yes, sir.

Q Is that the same Mr. Pitts that testified here for the government?

A It sure is.

Q How long had you known him?

A I would say nine or ten years.

Q What were the circumstances under which you saw him on November 17 or 18, 1962?

A I met with him at his home.

Q Just tell the Court and jury--, let me ask you

first had you been requested by anyone other than Pitts to help Mr. Paschal?

A Yes, sir, I had, Mr. Brown. There is a large number of truck drivers living in the area where Mr. Paschal patrols. And out of that group of fellows most of them were my friends and they were also this patrolman's friends and many of them from up there from time to time had asked me whether or not through any type of politics that I might be able to help this boy get promoted.

Q Now, as regards to Mr. Pitts, had he asked you on few or many occasions to help James Paschal?

A He certainly had. Yes, sir.

Q Few or many times, Mr. King?

A Many times.

Q Now, in that respect before we go any further I believe one of the agents testified that on one previous occasion he had followed you out to--, on the highway and that you made a telephone call and then went to Woodbury; would you explain to the Court and jury that day? I believe he testified there was a wreck, truck wrecked out there.

A Yes, sir, this morning that I heard the agent testify about I had gone to the barber shop and it was on Saturday I'm sure. And got a haircut. And while I was there I was advised that one of Super Service Motor Freight Company trucks had wrecked between Murfreesboro and Nashville. And

I elected to go down and see if there was any assistance or find out who the driver was. Maybe get statements in order to try to protect him or find out what caused the wreck in other words.

While I was there I discovered some fellows who were not members of our union and who were not being paid the scale as the contract provided for and realizing that Mr. Pitts was the job steward for Dixie-Ohio Express Company and one of his co-workers was working there, I elected to go on down to Mr. Pitts' house and discuss the matter with him and inform him of this type of action that was going on down at the wreck so he could take the proper steps to correct it and see the people collected the monies that were entitled to be called to do that work.

Q Who did you call from the phone booth that the agent testified you made a call?

A Well, I just thought after I got down about twelve or fifteen miles out of Nashville I hadn't told my wife I was going any place other than the barber shop and I called my wife.

Q When you arrived in Woodbury, on this occasion, did you see Mr. Pitts?

A I did not.

Q Was he home?

A Nobody was home.

Q Now, on the night of November 17, 1962, when you went to visit or what was the occasion of your going to Woodbury on that night?

A Did you say November 17th?

Q Yes, sir, the night that the meeting ultimately took place between you and Pitts and the Highway Patrolman Paschal.

A Well, I had had a call from Mr. Pitts and I was not doing anything. And he asked me if I could come down and talk to him about arranging to get some more beagles hounds for a hunt Thanksgiving because one of his dogs had died and he thought he knew where we could buy some dogs together.

Q Had this hunt been planned previous to this time?

A Yes, it was. And it was a standing deal every year. That is Thanksgiving we went hunting together.

Q Annual event?

A Yes, sir.

Q How many other people were involved or supposed to be involved in this hunt for the Thanksgiving coming up?

A Well, we had a boy from Wilson Freight Forwarding Company was going down. Doug Williams and another boy by the name of Willie Arnold.

Q And were you eventually able to make the hunt?

A No, sir, I was sick on this day.

Q Well, did the hunt come off?
A Yes, sir, they had the hunt.
Q The other fellows you mentioned?
A Yes, sir.
Q Pitts?
A Yes, sir.
Q Now, when you arrived at the home of Mr. "Mutt" Pitts, what time was it? Let me ask you first, Mr. King, on this occasion, did you drive your own car?
A No, sir, I didn't.
Q Whose car did you drive and what was the purpose in changing cars?
A I drove a Ford, Mr. Brown, belonging to George Broda, and at this time I had two Thunderbirds. One of them was being used in the business and the other one was being used private use at home.

So we were at a stage of changing from lease automobiles at the union where the cars were furnished one way or the other, we were in the process of changing from lease to owner-driven automobiles. And Mr. Broda had not bought him a car to use in the service of the union and I was of the belief that I should trade him one of these cars that I had for this Ford if he was interested in trading. And on this night that Pitts called me I called Mr. Broda and asked him about letting me take his car and drive it out

for awhile and in turn he would take mine and try it out.

End 6

Tk 7 fol.

Q Was there anything--did you attempt to hid anything by trading cars?

A No, sir, I did not, I had nothing to hide.

Q During this period that you traded cars previously and after that were you still under surveillance?

A Yes, I was.

Q Were you cognizant of this all of the time?

A Yes, sir.

Q Now, after you got the Ford and you went to Woodbury, who did you see on the night of November 17th, 1962?

A I went to Mr. Pitts' house and I saw he and his wife and child and Mrs. Pitts' father, Mr. Markum.

Q Tell this Court and jury if anything out of the ordinary happened while you were there in the Pitts home as related to any member of the Pitts family?

A Mrs. Pitts' father had been ill for quite some period of time since I have been going down to Mr. Pitts' home and while I was there this night he became severely ill and had a series of light strokes and he was unable to talk and certainly I was frightened, I figured that he, the poor old fellow was going to die, and so did Mrs. Pitts, and I--

Q (Interposing) Did you stay there and assist her?

A I was going to say I certainly did, I sit by that bed for long periods of time to try to console the old fellow and by holding him up to get his breath and rubbing him.

Q Now, during this period did Mr. Mutt Pitts go in or did he leave the house?

A Yes, sir, he went down to Woodbury, he said he was going to Woodbury.

Q Who went with him, if anyone?

A Sir?

Q Who went with him, if anyone?

A His little boy.

Q How old is he?

A About four years old.

Q About four years old. And what was the next thing that happened after Mr. Pitts returned home?

A Well, it has been estsblished he asked me about helping this highway patrol get a promotion and he told me he had seen Mr. Paschal downtown and had arranged for me to go talk with him and to assure him that I would go and speak to the people that I thought might be able to help him get promoted and he says, "This will get him off of my back if he will do it."

I said, "Well, Mutt, it's awful late. I have been here a lot longer than I intended to be and I need to be going."

He said, "Well, I just wish you would go down and tell him that I have been talking to you about getting him a promotion."

I said, "Well, how long will it take?"

He said, "Just a few minutes."

Q Then what happened?

A And we did, we went down to meet with Mr. Paschal.

Q Do you know who arranged the meeting place?

A Yes, it was arranged for according to Pitts by he and Paschal.

Q Did you have anything to do with that?

A Not anything at all.

Q Was there any conversation about going to the Paschal home or anything?

A You mean before the meeting?

Q Yes, sir.

A I don't believe so, no, sir.

Q All right, sir. Then after you left the house, who did you leave with, who all was in the party that left to go meet Paschal?

A Myself and Mr. Pitts.

Q And where did you mett Mr. Paschal and what took place after you got there?

A Well, we met him at the arranged place by the spring down there just off of the main road on a little side road just over the bank from the spring where they had set up to meet.

Q And what conversation, if any, took place between

you and Pitts and Paschal?

A Well, upon arriving at the meeting, I did not get out of the car immediately because I did not know this fellow and Mr. Pitts went over and talked to him just briefly and he came back and invited me to come over and get in the patrol car and sit down, it was raining is the reason I didn't get out immediately, real hard.

Q What conversation took place after you got in the patrol car?

A Well, we discussed the highway patrol in general, the people that I knew common to the ones that Mr. Paschal knew and just talked about the general attitude of the patrol to the truck drivers and how good or bad they were in different areas.

Q Had you ever met James Paschal prior to this time?

A No, sir, I had not.

Q Was he in uniform?

A Yes, he was.

Q Full uniform?

A And driving a highway patrol car.

Q Driving a highway patrol car?

A Yes, sir.

Q And after you talked about the patrolmen you knew and the patrolmen he knew then what was discussed?

A Well, during the course of the conversation,

Mr. Paschal made a remark to this extent that he asked me, he said, "Mr. King, what is going to happen to your boy Hoffa in Nashville?"

And I said to him, I said, "I do not believe anything will happen to him, Mr. Paschal, if he gets a fair trial."

And he said, "Well, you know my wife is on that jury." And he started to say something else and I said, "Now, look, I don't want to discuss your wife if she is on the jury and I know she is as well as you do, we just better not discuss that."

And that was the end of the conversation.

Q Had you ever seen Mrs. Paschal before in the courthouse?

A Had I what?

Q Had you ever seen Mrs. Paschal in the courthouse there when you would have occasion to go up to the trial?

A Yes, sir, I had seen her.

Q Did you ever meet Mrs. Paschal in your life?

A I have never met her, I talked to her briefly one day on the parking lot while we were waiting for our cars to be brought out.

Q How many people were present there?

A A half a dozen or more.

Q Was there any conversation between just you and

her or just--

A (Interposing) No, sir, we were talking about the weather in general, a group of people.

Q Did she know you, to your knowledge?

A No, sir.

Q Now, after this discussion, after you told Mr. Paschal not to discuss his wife, what happened then, Mr. King?

A Well, shortly thereafter we talked about the promotion farther and about me helping him get a promotion if I could and that I was willing to help him and after that, why, we shook hands and left.

Q I understand that you assured him that Mutt Pitts had been trying to get you to help him?

A Oh, yes, yes.

Q I understood you to say that that is what Pitts wanted you to do, is go up there and meet him?

A Yes. I told him not only had Mutt Pitts made inquiry of me if I might help him but a lot of truck drivers had.

Q Is it anything uncommon for you, Mr. King, to try to help people in the city and the state and anywhere else you could get promotions or get jobs?

A No, it is not, Mr. Brown, and this seemed to have been my problem all of my life, even down in the country where I was raised, if women had to go to the doctor to have

babies and what-have-you, it fell my lot to take them most of the time and I had always been generally practicing helping people all along if I could.

Q When you left Nashville going to Woodbury, if you know, Mr. King, were you followed at that time, were you under surveillance?

A Yes. A car picked me up as I drove out of my driveway from the parking area at the shopping center to the right of my house.

Q Now, where did you go after this meeting?

A The meeting with Pitts and Paschal?

Q With Paschal and Pitts.

A We went back to Mr. Pitts' house and I drank a cup of coffee and proceeded home.

Q And what time did you leave the Pitts home and where did you go?

A I don't remember the specific time, it must have been around two o'clock when I left Pitts' home and drove to my home.

Q Mr. King, returning to the meeting for just a moment. Did you ever at any time bring up the subject of the Hoffa trial that had been going on in Nashville yourself originally?

A With Paschal and Pitts?

Q Yes, sir.

A No, sir, I did not.

Q Did you ever, when you were talking to Paschal and Pitts and the subject of promotion came up, did you ever attach any condition to your helping him get a promotion?

A No, sir, I did not and neither have I with anyone else either.

Q Have you ever at any time either suggested to Mr. Paschal that your purpose in helping him was to have him influence his wife in any way on this jury?

A No, sir, I sure didn't.

Q Would you have approached the highway patrolman in a highway patrol car fully dressed, a stranger to you, with such a proposition?

A No, sir.

Q After you, or when you left the Pitts home returning to Nashville, were you still being followed or were you under surveillance at that time?

A If I was I didn't notice it until I was almost to my home.

Q And then what happened?

A As I turned off Lebanon Road on the old Donelson Pike, which is only a few hundred yards from my home, I noticed at this time a car picked me up and followed me to Benson Avenue, the street that I live on, and when I turned in on Benson and got--proceeded maybe a hundred yards, the

car that had fell in behind me at Lebanon Road stopped and then my headlights picked up another car only a few hundred feet from my home, sitting angled across the road with the hood up and I immediately assumed that they were watching me again and I pulled up and one of the marshals or FBI, or whatever he was, came over and said, "We will be out of your way in a minute." Pretty close to the car door.

I said, "Okay. Take your time." And I proceeded on to the house.

End Tk 7
Tk 7A fls.

Q Now, Mr. King, did you return this Ford that night or attempt in any way to secret the fact that you had used this Ford automobile instead of your regular car?

A No, sir, we kept this car almost a week.

Q And was that during the time you say you were trying the car out?

A Yes, sir.

Q Now, Mr. King, were you at a later date taken into Federal court?

A Yes, I was.

Q And who did you appear before?

A Judge Miller.

Q And at that time, prior to going into court, into the courtroom, did you have any conversation with anyone, agents or marshals or anyone?

A No, sir, just a general conversation while I was waiting to go into the courtroom.

Q When you went into the courtroom, did you testify at this hearing?

A No, sir, I didn't.

Q Tell the Court and jury why you didn't testify at that hearing.

A Well, upon entering the courtroom, it most certainly being new to me, never being on the witness stand for any reason, and the way the Judge explained to me what

my rights were and anything that I would say might be used against me I felt that Judge Miller, knowing the gentleman, was suggesting to me that I did not have to testify and that I shouldn't to protect my own rights and I didn't testify.

Q Now, were you later arrested?

A Yes, sir, I was later arrested.

Q By whom?

A By Mr. Grimsley and another gentleman that I have forgotten the name of.

Q This after you had been indicted?

A Yes.

End 7A

T[illegible]3 fol.

Q Now, where did Mr. Grigsby and the other gentlemen pick you up and did anything happen or any conversation, relate any conversation you had with Mr. --, is Mr. Grigsby an FBI agent or a marshal?

A I believe he said they were marshals. Now I wouldn't say for sure.

Q Identified themselves to you?

A Yes. Yes.

Q All right, sir, where did they pick you up, Mr. King?

A Picked me up at my place of employment on the street. I just had come in from a visit to one of the truck terminals and they picked me up on the street at 819 Second Avenue, South Nashville, Tennessee.

Q Did you have any conversation with these two marshals either on the way to the courthouse or after you arrived at the courthouse?

A Well, there was quite a bit of conversation. However, I didn't make the conversation. These two fellows seemed like real nice guys and they implied that they had found out from my record that I was a real nice guy and shouldn't be mixed up with this deal of Hoffa's, is the way they put it.

And then on arriving at the courthouse I said, "Well, look, you gentlemen know so much about me and don't know anything bad, I just think I ought to have you as

witnesses." And we went on into the courthouse. Had a laugh and went on into the courthouse.

Q Now after you were taken in the courthouse, what happened?

A Well, I was took in the marshal's office and fingerprinted and took some time to do this. They didn't come out very well. And after that I was taken across the hall from the marshal's office and asked to wait in a room there.

Q Did you talk to any agents at that time?

A Yes, sir, I had only been in the room a few minutes when Mr. Norwood and another agent came into the room. And asked me if I wanted to talk to them. Mr. Norwood did. And I asked him, "About what?" And he said, "I think you know. About what Hoffa told you to ask the highway patrolman to do." And I said, "Hoffa asked me to do nothing about the highway patrolman and I have nothing to say to you fellows."

However, this, Mr. Brown, was after he had made a temporary search of me. Asking me to take the things out of my pocket and rambled through my pocketbook looking for whatever he might be able to find.

Q Do you mean they searched your person and was this in a general nature to see if you had weapons?

A No, sir, they asked me to take the things that I had in my pockets out.

Q Do you mean your personal effects?
A Yes, sir, all of them.
Q What did they do with those?
A They didn't do anything with them, except go through my pocketbook and close it back up and allow me to put them back in my pocket.
Q Did they show you a search warrant or anything at that time to search your person?
A No, sir, certainly didn't.
Q Were you later visited by government attorneys or agents in your home?
A No, sir.
Q Did you have occasion to talk to Mr. Sheridan, Mr. Neal, or Mr. Disspayne?
A Yes, sir, this was in January of 1963.
Q 1963?
A Yes, sir.
Q Was this prior to the indictment?
A It was.
Q And what was the occasion of their visit at that time?
A Well, they came to my home and some of my children invited them into the house and I was -- my home is arranged, the top level has the sleeping quarters and then you go down some steps into the living room. And they walked down into

the den or the living room where we were watching television. And asked me if I wanted to talk to them.

And I told them I had nothing to talk to them about. They said, "Well, do you care if we talk to you?" I said, "No, sir, I do not. However, I have got nothing to say to you fellows."

So at this time we went upstairs and I sat on the bed. Mr. Disspayne, I believe, sat on the bed beside me. Mr. Neal sat in the floor. And Mr. Sheridan sat in the only chair that there was in the room. And they started to advise me that I was in serious trouble.

Q Who was this that you were talking to at this time?

A Mr. Sheridan.

Q Mr. Sheridan?

A Yes, sir. And that I would be indicted before the Grand Jury but indictments didn't always mean that I was guilty. But he was positive that I would be indicted. And that if I was willing to cooperate, in his own terminology, to help them get Hoffa, that they felt that they could help me.

Q Did you at this time tell them anything?

A No, sir, I did not.

Q Had you previously told them all you knew about this? Had you told them by that question I mean, when you say

they took you to the post office, did you tell them in response to their questions there that you had not been asked to do anything improper?

A No, sir, I don't remember, I don't remember this conversation. I didn't -- I didn't go to the post office with anybody.

Q At this time were they, --, when they arrested you, did you make a statement to them at that time?

A Yes.

Q That no one had asked you to do anything?

A Yes, sir.

Q Had anyone asked you to do anything?

A That was after the indictment.

Q Did they seem to believe you then?

A Yes.

MR. NEAL: Your Honor, we object to that. Move that that be stricken. He has been --

THE COURT: (Interposing) Sustained.

MR. NEAL: He has been indicted.

THE COURT: Sustained.

BY MR. BROWN:

Q Mr. King, did you ever endeavor to influence Mr. Paschal in regard to having him talk to his wife or have her vote any certain way as a juror, did you ever try to do that?

A I did not, Mr. Brown. Nor did anyone else

because this would of been completely out of my field. I wouldn't have know anything about this type of matter in the first place, plus the fact that I wasn't raised to violate the law anyway.

Q Are you guilty of the things that you are charged with in this indictment, of aiding, abetting, impeding, or attempting to influence a lady juror by the name of Paschal in any way?

A No, sir, I am not, Mr. Brown.

Q Did Mr. Hoffa ever ask you to endeavor to influence, intimidate, impede Mrs. Paschal or her husband in the discharge of her duty as a petit juror?

A No, sir, he did not.

Q Did you ever have any conversation to your knowledge regarding Mrs. Paschal with Mr. Hoffa or anyone else?

A No, sir.

Q What effect has the indictment and the publicity and the trial had on your family?

MR. HOOKER: We object to that.

THE COURT: Sustain the objection.

MR. BROWN: You may ask him.

THE COURT: Any further examination by any defendant? Very well. Any cross examination?

MR. HOOKER: Yes, sir.

CROSS EXAMINATION

BY MR. HOOKER:

Q Mr. King, do you know the Defendant Tweel?

A I met him here, yes, sir.

Q Did you meet him at Nashville?

A No, sir.

Q Do you know the Defendant Thomas Ewing Parks?

A I have also met him in Nashville and here.

Q Where did you meet him in Nashville?

A I will have to take that back. I had not met Mr. Parks in Nashville.

Q Well, now, think about that. I want you to be certain.

A I'm certain.

Q You never saw him during the trial in Nashville?

A No, sir. He called me on occasions and said he was Thomas Parks that is where I --

End 8
8a fls

Q At Nashville?

A Yes, sir.

Q When were those occasions?

A I don't remember the occasion, Mr. Hooker.

Q During the trial of Mr. Hoffa at Nashville?

A Could have been after the trial. I believe it was after the trial.

Q Well, was it before, during or after?

A It was after the trial.

Q What did he call you about?

A He asked me for someone's address I believe and I don't remember whose it was. I didn't recognize the fellow nor did I pay too much attention to it.

Q And you tell the jury that you never saw him until you got to Chattanooga?

A Yes, sir.

Q Do you know the Defendant Campbell?

A Yes, sir.

Q How long have you known him?

A I have seen Mr. Campbell in Detroit maybe a couple of times before this.

Q In connection with union business?

A Well, I would be there in connection with union business, yes, sir.

Q Did you have any conversation with him over the

telephone?

A No, sir.

Q Do you know the Defendant Dorfman?

A I have met him, yes, sir.

Q How long have you known him?

A A few years, just casually I would like to say.

Q Well, how many years?

A Three or four.

Q What were the occasions for your meeting him?

A I saw him in hotels around Chicago and different meeting places that I have been that Mr. Dorfman was.

Q Did you see him with Mr. Hoffa?

A I have seen him with Mr. Hoffa, yes.

Q Now, how long have you known the Defendant James R. Hoffa?

A Approximately ten years. That is to say I know him in--

Q (Interposing) Approximately ten years did you say?

A Yes, sir. No more than that.

Q And how often did you see him during that ten year period?

A Well, the first seven years I just saw Mr.Hoffa around the conventions of the union and the meeting places, grievance sessions, things of that nature. Hardly knew him for the first seven years of that period.

Q Now, when he came to Nashville to commence the trial of this case, shown to have been commenced on October 22nd, you met him at the airport, didn't you?

A I think the record shows that, Mr. Hooker, yes, sir.

Q And what day was that?

A 21st of October, I believe.

Q Sunday?

A It has been established.

Q Sunday, October 21st?

A Yes, sir.

Q Who went with you to the airport to meet Mr. Hoffa?

A I don't believe anyone did.

Q Was anyone with Mr. Hoffa?

A Yes.

Q Who?

A Mr. Larry Steinberg, I believe. However, I'm not positive of that but I believe Mr. Steinberg was.

Q You think there were just two of them?

A Yes.

Q How did you happen to meet him at the airport, Nashville, was it by pre-arrangement?

A I had checked to see what time he would be in, yes, sir.

Q Well, with whom did you check to find out what time he would be in?

A The normal place that you would check, the airport.

Q Well, how would you find out what time a man is going to get in at the airport unless the man himself had told you something about what plane he was going to catch?

A Well, I would check the flights coming in, sir.

Q You don't mean to tell the jury that you just called out there--

MR. SILETS: (Interposing) Your Honor, Mr. Hooker is arguing with the witness.

THE COURT: Overrulethe objection.

BY MR. HOOKER:

Q Just called out there and wanted a list of flights without having any idea what flight the man was going to be on, did you, Mr. King?

A Well, I knew that Mr. Hoffa was coming into Nashville on this day and I had to establish what time he would be there because I did not know.

Q Well, did you meet all planes that day, is that the way you went about it?

A No. That would have been stupid, Mr. Hooker. I didn't meet all planes.

Q Which one did you meet?

A The one that Mr. Hoffa came in on.

Q And how did you know that that would be the one he would be on?

A I had checked with the airport.

Q There was nobody but the airport?

A That is the only one I remember checking with, yes, sir.

Q Do you mean to tell the jury that the airport gave you out the information of what flight Mr.Hoffa would be on?

End 8A

Tk 9 fol

MR. BROWN: He has answered the question and now Mr. Hooker is arguing the question.

THE COURT: Overrule the objection.

A I knew from the flights or where they came in from, Mr. Hooker, that he wouldn't be coming in from some area other than Chicago or Washington or Detroit.

Q Where did he arrive from?

A I do not know.

Q And what time was the flight that you met?

A I couldn't say that truthfully, Mr. Hooker, I don't remember what time of the day it was.

Q How long did you wait at the airport for him?

A A very short while.

Q And met him just at the right plane and got him?

A Yes, sir.

Q Where did you take him after you picked him up at the airport?

A I took him to the hotel, the Andrew Jackson.

Q Did you get out at the hotel with him?

A I am sure I did, yes.

Q That was on Sunday night, Sunday afternoon?

A Sunday afternoon, yes.

Q And then from that time on October the 21st, 1962, the Sunday that Mr. Hoffa arrived in Nashville, until the conclusion of his trial, the day before Christmas Eve,

December the 23rd, you were with him every single day, weren't you?

A No, sir.

Q How many days did you miss?

A I am not sure but there was a few days that I wasn't with him.

Q Well, give the jury some idea in that period of two months how many days or nights that you missed seeing Mr. Hoffa somewhere at Nashville, the Andrew Jackson Hotel, the courthouse, or somewhere else?

A Mr. Hooker, I'd like to testify to the truth, not on some guess that I would make on how many days I did not see Mr. Hoffa.

Q Well, can't you estimate it in any way?

A I would estimate it four or five days maybe while he was there.

Q You think of the two-months time, the approximately 60 days that he was in Nashville, that you missed four or five of those days in seeing him?

A That could be true, yes.

Q Now, you went to the courthouse with him on the morning of October 22nd when this trial commenced, did you not?

A Yes, sir.

Q And you went to the courthouse with him every

single day that the court was in session from then on until the conclusion of the trial, did you not?

A Now, Mr. Hooker, you are confused. I just told you that it was some days I didn't see Mr. Hoffa.

Q I know, but there was Saturdays and Sundays. Which days did you miss seeing him?

A Talking about days that court was session, sir?

Q That court was in session.

A Yes.

Q You saw him all weekends?

A No, sir, I did not see him all weekends.

Q Well, you said you missed seeing him four or five days. Did you miss weekends or did you miss court days?

A Mr. Hooker, to try to explain, I'd say that there were four or five days during the court sessions that I was not there or did I see Mr. Hoffa.

Q You are now limiting it to court sessions?

A I am not now limiting--

MR. BROWN: (Interposing) Now, if your Honor please, I object.

A I am just telling you the facts, sir.

MR. BROWN: Mr. King. I object to Mr. Hooker attempting to trick this witness. He naturally asked him about court days and how many days he missed. Now, he says on weekends. If he would clarify his statement, I am sure,

without making reference to changing his story--

THE COURT: (Interposing) Overruled.

MR. HOOKER: I am not undertaking to trick the witness, if your Honor please. I think that is an unfortunate statement.

THE COURT: Proceed.

BY MR. HOOKER:

Q Did you see him every Saturday and Sunday?

A No, sir, I did not.

Q How many did you miss?

A I do not know.

Q Not many, was there?

A Certainly was quite a few.

Q All right. Because if my memory serves me right, Mr. Hooker, I believe that Mr. Hoffa normally returned to some other activities during the weekend and didn't stay in Nashville.

Q Now, when the jury was selected in the United States District Court at Nashville, you were called around and asked to stand up during the voir dire examination of the jury, were you not?

A Yes, sir.

Q And asked to do that several times?

A Once that I remember.

Q So the jury could see you and look at you?

A Yes, sir.

Q And Mrs. Paschal, the wife of this highway patrolman at Woodbury, was on that jury?

A I believe she was at the time they asked me to stand up. Is that what you have reference to?

Q Yes, sir.

Q Yes, sir.

A Yes, sir.

End Tk 9
Tk 9A fls

Q And you customarily sat in that courtroom while the case was being tried on the row of seats just outside of the rail, did you not?

A I sat wherever there was a seat available.

Q Well, wasn't you mostly sitting right there in the front row?

A If I could get in the front row, yes.

Q And didn't you get there in the front row?

A A lot of times I did, yes, sir.

Q You were there early and late, weren't you?

A What do you mean by late, Mr. Hooker?

Q Were you there at the beginning and stayed until the end?

A Most times I did, yes, sir, not always but most of the times I did.

Q Didn't you most times sit on the front row in the plain view of the jury in that case?

MR. BROWN: Your Honor, he has answered that question, been asked and answered three times.

THE COURT: Overrule the objection.

A If I could get a front seat, yes, sir.

Q You were there. All right. Now, to continue your relationship with Mr. Hoffa since that trial and prior to this trial when you ran the last time against Mr. Vestal, you said you beat him in 1960 and then you had another race

this year?

MR. BROWN: That has nothing to do --

MR. HOOKER: (Interposing) I am not going to ask him the result. He can tell it.

MR. BROWN: Do you mind if I make the objection, please? Every time I start addressing the Court, Mr. Hooker starts talking. I think it's just a common courtesy.

THE COURT: State your objection.

MR. BROWN: We object to this line of questioning. Whether the election in the union in this local in Nashville, or Vestal beating him, has nothing to do with this case.

MR. HOOKER: I wasn't going to ask him about Vestal beating him, you mentioned that yourself.

MR. BROWN: Asking him all this. Now, I object to Mr. Hooker making the remarks to the jury and grinning like a possum.

MR. HOOKER: I'd rather look like a possum than some other things around.

MR. SILETS: Your Honor, I move that those comments be stricken and the jury instructed to disregard it.

THE COURT: Well.

MR. SILETS: I ask the Court to admonish Mr. Hooker specifically to refrain from that, that is prejudicial to everybody here.

THE COURT: Let's diregard the statements of both

counsel, ladies and gentlemen.

MR. SILETS: Your Honor, I think that Mr. Hooker needs a specific admonition, if the Court please.

THE COURT: Proceed.

BY MR. HOOKER:

Q What I wanted to ask you about --

MR. SILETS: (Interposing) May I take exception to your Honor's --

THE COURT: (Interposing) Yes, sir.

BY MR. HOOKER:

Q What I wanted to ask you about, about this election, is not how it came out but didn't Mr. Hoffa come to Nashville and make a speech for you in connection with your race for head of the union in Nashville after, subsequent to the trial of the Test Fleet case in Nashville?

MR. HAGGERTY: Object to as incompetent, irrelevant, and immaterial.

THE COURT: Overrule the objection.

A Yes, he did, and it was made a matter of public record, Mr. Hooker, by being published in the newspaper.

Q That is the reason I knew about it, Mr. King.

A Yes, I am sure of that.

Q Didn't Mr. Hoffa call you up to Philadelphia in early '64 to discuss the matter of your election in Nashville?

A No, sir.

MR. HAGGERTY: Object to that, incompetent, irrelevant, and immaterial.

THE COURT: Sustained.

BY MR. HOOKER:

Q What?

A No, sir.

Q Did not? All right. Could I have those photographs, Mr. Clerk?

Well, did he call you to Philadelphia to assist him in an election up there?

A Yes, sir.

MR. HAGGERTY: Object to that as incompetent, irrelevant, and immaterial to the issues in this case.

MR. BROWN: The Court just sustained his motion just prior to that.

THE COURT: Sustained.

BY MR. HOOKER:

Q Now, I want to hand you Government's Exhibit No. 38 and ask you -- you are not shown in the picture -- but ask you if you were present when that picture was taken?

MR. BROWN: Your Honor, it would have no bearing on this case unless Mr. Hooker can explain what this matter is supposed to be. I understood the Court to --

MR. HOOKER: (Interposing) I understand --

MR. BROWN: (Interposing) Mr. Hooker, will you

let me finish, please? I understood the Court to sustain Mr. Haggerty's objection to the questions on these irrelevant matters.

THE COURT: Overrule the objection.

BY MR. HOOKER:

Q Were you around about somewhere when that picture was taken?

A I would not know, Mr. Hooker.

Q Is the man in that picture with Mr. Hoffa the man that you swapped cars with the night that you went to see Patrolman Paschal?

A The man is in the picture that I swapped cars with, yes.

Q And do you see him here today?

A No, sir, I do not.

Q He has been here for several days, has he not?

A He has been here for some days, yes, I don't know how many.

Q And that is the man whose name is Broda?

A That's right.

Q That's in that picture with Mr. Hoffa?

A Yes, sir.

Q And he is the man that you exchanged cars with the night you went up to Woodbury?

A True.

MR. HOOKER: We'd like to pass that to the jury, if your Honor please.

MR. BROWN: If your Honor please, I haven't even seen the exhibit, it hasn't been identified by this witness. We object to it being introduced into evidence.

MR. HOOKER: Already in evidence, Mr. Brown, been for two or three weeks.

MR. BROWN: You didn't refer to it.

MR. HOOKER: Yes, I did by number.

MR. DALE: It's 86, your Honor.

MR. BROWN: Has been introduced into evidence, your Honor?

THE COURT: Defendant's Exhibit 86 has been introduced.

End 9a
9b fls

BY MR. HOOKER:

Q Now, I hand you another photograph, it looks like 84. Is that 84?

MR. NEAL: Yes, I believe it is.

BY MR. HOOKER:

Q It appears to us to be 84, I guess it is, it has been introduced in evidence, and ask you if that is the photograph of you leaning over the trunk of the car and Mr. Hoffa on the side there when you met him at the airport?

A It looks like me, Mr. Hooker, and it is my car.

Q And that is your number, isn't it, on the car, you can tell from that?

A Yes, sir.

Q Is that the car that you swapped with Mr. Hoffa the night you went to see Mr. Paschal?

A It is not.

Q A different car?

A Yes, sir.

Q What is this, your personal car?

A Yes, sir, it is, or was.

Q The car that you exchanged with Mr. Broda was that a car belonging to the union?

A No, sir, it belonged to me.

Q It belonged to you?

A It did, however, the union was subsidizing us for

the use of an automobile.

Q Now, while I am on that subject there, what sort of car did you get from Mr. Broda?

A It was a 1958 Ford 2-door.

Q 1958 Ford 2-door?

A Right.

Q And what kind of car did you swap with him that night when you went to Woodbury?

A A 1960 blue Thunderbird.

Q Thunderbird, 1960. And you told the jury, as I understood you, that your reason for swapping a 1960 Thunderbird for this trip for a 1958 Ford, driving that to Woodbury--

MR. BRANSTETTER: (Interposing) Now, may it please the Court, counsel is making a speech here.

MR. HOOKER: No.

MR. BRANSTETTER: And he is misstating the evidence. He said, "For this trip." This gentleman has said that he kept it for a week.

MR. HOOKER: All right.

MR. BRANSTETTER: He explained. Let him ask him a question if he wants, not make the statement.

BY MR. HOOKER:

Q Didn't you swap it?

MR. BRANSTETTER: May it please the Court, I want a ruling on this matter.

MR. HOOKER: Beg your pardon?

MR. BRANSTETTER: I think counsel should be required to follow the rules of procedure of this court.

THE COURT: Restate your question.

BY MR. HOOKER:

Q Didn't you swap the Thunderbird for the Ford the very night you went to Woodbury?

A I sure did.

Q That was the night you made the exchange?

A Yes, and, Mr. Hooker, I'd like to clarify for the record too, this was not a '58 Ford, it was a '59 Ford.

Q Well, '59 Ford?

A Yes, sir.

Q But, anyway, it was a '60, 1960 Thunderbird, wasn't it?

A Right, and a good one.

Q And how far is it from Nashville to Woodbury?

A I believe it's about 45 miles.

Q And what time did you make this exchange?

A It was in the early evening around 6.

Q What do you mean "early evening"?

A Somewhere between six and seven o'clock, I believe.

Q And where did the exchange take place?

A On Murfreesboro Pike at Martin's Restaurant.

Q At Martin's Restaurant on Murfreesboro Pike?

A Yes, sir, or in front of the drug store there by Martin's Restaurant.

Q How far did you say it was to Woodbury?

A I believe it's about 45 miles.

Q Forty-five miles?

A Mr. Hooker--

Q (Interposing) It's on beyond, you go from Nashville first to Murfreesboro and then to Woodbury, do you not?

A That is true.

Q And you exchanged your 1960 Thunderbird that night with Mr. Broda for his 1959, you say it was a Ford?

A Yes, sir.

Q And you drove the Ford to Woodbury?

A Right.

Q All right. Now, I want to get you to identify another photograph. Before I get into that, Mr. King, I hand you Government's Exhibit No. 93. Will you pass this to counsel, please, Mr. Sertel?

Do you recognize yourself in that?

A Yes, sir, I do.

Q You recognize Mr. Hoffa?

A Yes.

Q You recognize Mr. Partin?

A Well, this could be him on the side but I can't-- I can't identify him by the side of his head.

End Tk 9B
Tk 10 fls.

Q Do you mean you don't see him with the arrow pointing to his head?

A Oh, yes. Yes, I do.

Q Yes, sir, then no doubt about who that is, is there?

A No, sir, I wouldn't say so.

Q How many days do you suppose you saw him at the Andrew Jackson Hotel?

A Mr. Hooker it would be hard for me to say. I saw him going and coming. Different intervals. Maybe every other day or every two or three days.

Q You think during the 60 days of the trial that you saw Partin maybe every day, every other day, two or three days?

A Something in that neighborhood. I could not say how much I saw him.

Q Did you see him in Mr. Hoffa's suite?

A I don't believe I saw him in Mr. Hoffa's suite. I saw him at the door on long intervals, many days over several days.

Q By the way, you were in Mr. Hoffa's suite frequently, were you not?

A Yes, sir, I was.

Q Let me have that diagram there of the suite. Now, I have placed before you on the easel a plat or diagram

whatever you want to call it, it has been identified I think as government's exhibit No.--, has it been given a number, Mr. Mansfield?

MARSHAL MANSFIELD: Exhibit 97.

BY MR. HOOKER:

Q No. 97 and ask you to look at that and see if you can identify that as being a plat of that suite.

A Only thing I can recognize there, Mr. Hooker, would be room 740 and I believe that was Mr. Hoffa's hotel room. Other than that I am no authority on those kind of drawings at all.

Q You are not familiar enough with it to identify it?

A No, sir, I'm not.

Q All right. All right. Now, you spoke of seeing Mr. Partin there in the suite. What was he doing there most of the time?

A I did not say that.

MR. BROWN: I object to it. He said he never saw him in the suite. Saw him in the hall. Mr. Hooker is attempting to inject something in these questions. I object.

THE COURT: Sustain the objection.

MR. HOOKER: I misunderstood him.

BY MR. HOOKER:

Q What hall did you see him? Hall to the suite?

A Yes, sir. I saw him in the hall to the suite.
Q And was he guarding the door?
A Sir?
Q Was he standing at the door?
A There was a period of time that he was sitting at the door, yes, sir.
Q In other words, he had a chair there sitting at the door leading from the main hallway or the common hallway I will call it of the hotel into the hallway of the suite itself.
A I remember no hallway in the suite to the door of the room 740.
Q Door of the suite, all right, he was sitting in a chair at the door to that room? Was that the door to Mr. Hoffa's room?
A 740 was, yes, sir.
Q Now, Mr. King, how long had you known Mr. Paschal that you went to see that night, member of the highway patrol?
A I did not say I had known Mr. Paschal, Mr. Hooker, and I did not know him.
Q How long had you known Mrs. Paschal?
A I had not known Mrs. Paschal or have I testified that I know Mrs. Paschal other than seeing her in the courtroom.
Q You know Mr. Craig Ellis of the Nashville Banner, do you not?

A I have met Mr. Ellis, yes, sir.

Q Didn't you tell Mr. Ellis after this matter arose that you had known both Paschal and Paschal's wife for a long time and had hunted with Paschal, and therefore, never gave this meeting with Paschal any thought.

A That is absolutely a lie, Mr. Hooker, and I so advised that newspaper and what I did say was that I had knew Mr. Pitts and his wife for awhile, long while. I never made a statement that I knew Mr. Paschal and his wife. Because it would have been an untruth if I had. Of course, that is pretty true to form with the newspaper.

Q Never knew him at all?

A Sir?

Q You never knew Paschal at all?

A No, sir, I did not know him.

Q When did you first go to Woodbury, Mr. King?

A When did I first go to Woodbury?

Q What was the date of your first trip?

A If I remember correctly, Mr. Hooker, it was somewhere in 1944 I drove a truck through there.

Q Well, I don't mean that. I misled you.

A Excuse me.

Q I meant [illegible] connection with the matter that we have [illegible] here, when was your first [illegible] r, 1962?

A I have met Mr. Ellis, yes, sir.

Q Didn't you tell Mr. Ellis after this matter arose that you had known both Paschal and Paschal's wife for a long time and had hunted with Paschal, and therefore, never gave this meeting with Paschal any thought.

A That is absolutely a lie, Mr. Hooker, and I so advised that newspaper and what I did say was that I had knew Mr. Pitts and his wife for awhile, long while. I never made a statement that I knew Mr. Paschal and his wife. Because it would have been an untruth if I had. Of course, that is pretty true to form with the newspaper.

Q Never knew him at all?

A Sir?

Q You never knew Paschal at all?

A No, sir, I did not know him.

Q When did you first go to Woodbury, Mr. King?

A When did I first go to Woodbury?

Q What was the date of your first trip?

A If I remember correctly, Mr. Hooker, it was somewhere in 1944 I drove a truck through there.

Q Well, I don't mean that. I misled you.

A Excuse me.

Q I meant when did you go in connection with the matter that we have under investigation here, when was your first trip, to make it more specific, in October, 1962?

A I am not sure of the date, sir, however, I went to as I have stated before I went down to this truck wreck on Highway 41 between Murfreesboro and Nashville and when I arrived there I noticed or I saw these young fellows working for a buck an hour which I knew was a violation of the contract. And I knew also that Mr. Pitts was the job steward who was to look after those problems and he would have no way of knowing about it unless I informed him and I went on to Mr. Pitts' house on this day and there was no one at home.

Q Mr. Sertel take that down. Would it refresh your recollection if I asked you if it was on October 27th?

A It was on a Saturday, Mr. Hooker. That I can verify. It was on a Saturday. October 27th.

Q October 27th was on a Saturday?

A Yes, sir.

MR. HOOKER: Your Honor, counsel have indicated, some of these older men, that they would like to have a recess.

THE COURT: All right, let's take a ten minute recess at this time.

(Thereupon, at 10:30 o'clock a. m. court was in recess.)

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(After recess, the jury of 12 and 4 alternates returned to the courtroom, and in their presence, the following proceedings were had, to-wit:)

MR. SILETS: May we have a moment, your Honor?

THE COURT: All right, Mr. Silets, is there something further? Do you desire to proceed further?

MR. SILETS: No, your Honor, I just wanted to know if everybody --

THE COURT: (Interposing) All right, let's proceed then.

BY MR. HOOKER:

Q Mr. King, I believe you stated that this trip to Woodbury was on a Saturday night and you stated that it could have been the 27th?

A Yes, sir.

Q Somewhere along that time, anyway?

A Yes, sir.

Q Now, how did you happen to go to Woodbury on that particular night?

A Mr. Hooker, you are a little confused. On the 27th, no, I did not go at night. It was in the morning.

Q Morning, all right.

A Yes, sir.

Q How did you happen to go up there in the morning?

A I was advised by a truckdriver friend at the

barbershop that one of Super Service Motor Freight Company's trucks had wrecked between Nashville and Murfreesboro and I went down to this wreck to see who was involved or whether the driver was hurt and things of that nature. And I said before, when I arrived there, I found some people working below the contract scale who they had picked up from areas around there, and one of the fellows who worked for D.O.X., Dixie-Ohio Express, who is a friend, a good friend of "Mutt" Pitts, and "Mutt" Pitts was the job steward for all of the city employees at Dixie-Ohio Express, and I journeyed on down to Mr. Pitts' house to advise him of the occasion that I had found down there so he could properly handle it.

Q You went to Mr. Pitts' house?

A Yes, sir.

Q How long have you known Mr. Oscar "Mutt" Pitts?

A About nine or ten years, I think.

Q His name is Oscar but most people call him "Mutt," isn't that correct?

A Yes, sir. "Mutt."

Q What had been your association with him during those nine or ten years?

A Quite a bit. I had been to his house on many occasions. I have been for the last several years going there rabbithunting on Thanksgiving. He had been job steward. And I knew him when he was working for a different truck company.

T.C.T. at the time he got fired and lost his seniority and this was my first acquaintance with him in helping to sustain him in what was due him under the contracts.

Q Did you go in his home?

A When?

Q On that occasion?

A On the 27th?

Q Yes, sir.

A No, sir.

Q Where did you see him?

A I didn't see him.

Q You didn't see him at all on the 27th?

A No, sir.

Q You went to Woodbury and saw about this other situation and came back?

A Which situation was that, Mr. Hooker?

Q Well, didn't you say, didn't you mention something about a wreck?

A Yes, sir, but it wasn't at Woodbury.

Q Where was it?

A Between Una and Murfreesboro.

Q Una and Murfreesboro?

A Yes, sir.

Q Now, then, did you go to Pitts' house about the 27th of October?

A I did.

Q You did?

A Sure did.

Q What time of day was that?

A It was in the morning hours.

Q In the morning?

A Yes, sir.

Q All right, that is the occasion I wanted to ask you about. Who was there when you got there?

A I think I have told you, sir, that I didn't see anyone. There was nobody home.

Q You didn't see Pitts?

A No, sir.

Q Didn't you see Pitts and have a conversation with him on that occasion about Paschal?

A Mr. Hooker, I just informed you there was nobody home. If there were, they didn't answer the door.

Q And you didn't see him at any time on that trip?

MR. BROWN: Your Honor, this is six times that he has told Mr. Hooker.

THE COURT: All right, let's proceed.

BY MR. HOOKER:

Q Why, Mr. King, didn't you have a discussion with him that day somewhere I thought it was in his house, about whether this man Paschal would take any money?

A I will advise you again, Mr. Hooker, and the jury that I did not see Mr. Pitts on this day. There was nobody home.

Q Your answer is you had none whatever with him?

A That's right.

Q And whatever he says about any --

MR. BROWN: (Interposing) Your Honor, that is highly improper. Mr. Hooker knows it.

THE COURT: Sustain the objection.

MR. HOOKER: All right.

BY MR. HOOKER:

Q You heard him testify, didn't you, Mr. King?

A Mr. Pitts?

Q Yes.

A Yes, sir, I did.

Q Did you hear him testify about your dealing with him on that day --

MR. BROWN: (Interposing) Your Honor, it would be subverting the Court's ruling on this matter to compare testimony. If he testified to that, I didn't hear it.

THE COURT: Sustain the objection to the form of the question.

MR. HOOKER: All right.

BY MR. HOOKER:

Q All right, when was the next time that you went to

Woodbury?

A On the night that has been so much questioning about, on the 17th, I believe it was, Mr. Hooker.

Q On the 17th of November?

A Yes, sir.

Q And on that occasion you did see Mr. Pitts?

A Yes, sir, I did.

Q Where did you see him?

A In his home.

Q And did you have a conversation with him?

A Yes, sir.

Q In that conversation didn't you ask him, "Reckon Paschal would take the money?"

A What money?

End 10a
11 fls

Q The money that was to be given to him to fix his wife on this jury?

A I did not, sir.

Q And didn't he answer to you that he didn't think that Paschal would take no money from nobody?

A I've just said, Mr. Hooker, that I did not do any such thing.

Q Did you say that you thought you could get Paschal his promotion?

A I told Mr. Paschal I would try to help him get a promotion, yes, sir.

Q Before you went to Mr. Paschal did you discuss with Mr. Pitts that night at his house before the arrangement with the meeting with Paschal was arranged that you could get Paschal a promotion?

A That night and 40 or 50 other times I'd say, Mr. Hooker, I had discussed this boy Paschal with Pitts or Pitts had discussed it with me, in other words.

Q This man that you didn't know at all?

A That's right.

Q You say you talked with Pitts about him 40 or 50 times?

A I'd say at least, yes, sir.

Q And who did you ever talk to about his promotion?

A No one.

Q No one?
A No, sir.
Q You knew Governor Clement, didn't you, the governor-elect?
A Yes, sir.
Q That was to take office in January the following year?
A Yes, sir, I knew Governor Clement.
Q In '63. Did you ever talk with him about a promotion for Paschal?
A I did not.
Q You knew Governor Ellington well, who was the then governor of Tennessee, didn't you?
A No, sir, I didn't know Governor Ellington well, I did know him, however, but not well.
Q You knew him?
A Yes, sir.
Q Did you ever talk to him about any promotion for Paschal?
A No, sir, not for Paschal.
Q You knew Craig O'Rear, who is the chief of the highway patrol, didn't you?
A I have met Craig O'Rear, yes, sir.
Q Did you ever talk to him about a promotion for Paschal?

A I did not, sir.

Q You did not. Never talked to anybody about him?

A No, sir, other than these drivers who were contacting me, wanting me to see if I could help him secure a promotion.

Q Now, did you ask Mr. Pitts that night if he could talk to Paschal about talking to his wife?

A No, sir, I sure did not.

Q Didn't Pitts tell you that the Paschals had money?

A No, sir, he did not.

Q He did not. Now, that night that you were there you went from Pitts' house, where did you go?

A I went and had a conversation with the highway patrol and back home after I left there.

Q Where did you meet the highway patrol?

A As testified, down below Mr. Pitts' house between there and the main highway, 41.

Q Did you go to Mr. Pitts' house when you went over to get Paschal?

A I don't follow that line of questioning.

Q Well, did you leave Pitts' house in one car or two?

A We left in one car.

Q In one car?

A Yes, sir.

Q And where did you go then?

A When we left?

Q Had Pitts already left and seen Paschal before that night?

A He advised me he had.

MR. BROWN: He asks a question and don't allow the witness to answer before he asks another one.

BY MR. HOOKER:

Q All right, answer, Mr. King.

A He had advised me that he had talked to Mr. Paschal that night, yes, sir.

Q Did he leave you at his house?

A Yes, sir, he sure did.

Q And left and came back?

A Yes, sir.

Q And told you that he had seen Paschal.

A Right.

Q Now, you got in the same car.

A Yes, sir, I did.

Q Whose car?

A Mr. Broda's car, the car that I had driven to Woodbury.

Q The Thunderbird?

A No Thunderbird, Mr. Hooker, a '59 Ford.

Q I mean a '59 Ford that you swapped for the

Thunderbird.

A Right, sir.

Q Now, did you go to--, where did you go then, did you go to the meeting place direct?

A I went to the place that Mr. Pitts advised that we were to go to talk to this highway patrol about the promotion for him.

Q What time of night was that, Mr. King?

A It was sometime after midnight, sir, I do not know exactly what time it was.

Q And do you remember about what the date was?

A About the date?

Q Yes.

A It was on the morning of the 18th.

Q Of November?

A Yes, sir.

Q You say the morning, that is, after midnight.

A That's what I said.

Q What was the condition of the weather?

A It was raining.

Q Raining?

A Right.

Q And did you go on out to this place on the road there?

A I went down to the spring, yes, sir.

Q Have you seen the picture of that scene that has been exhibited here?

A I did and, Mr. Hooker, you well know for us country people it's not uncommon to meet at a spring or around some hill or some place by the side of the road to have a meeting or discuss problems.

Q You mean after twelve o'clock at night on a rainy night?

A Well, my duties required me to meet at any time because I was contacted day and night, both for meetings and what-have-you.

Q Well, you spoke about country people. What kind of country people do you know that meet at springs on rainy nights after twelve o'clock?

A In my opinion the best people they are, Mr. Hooker, is those type people that will go out of their way to try to help someone.

Q You say this is just a country type meeting?

A I said it was normally true that you would meet at places such as this known as the spring in the country, yes.

Q What did you go over there for to have this meeting on this road this rainy night after twelve o'clock, what did you go for?

A Primary reason for going, Mr. Hooker, was to

satisfy "Mutt" Pitts that I would discuss with Mr. Paschal the possibility of helping him get promoted on his job where he had been a highway patrolman and not a corporal for 14 years.

Q To help this man Paschal that you didn't know.

A Right, sir.

Q What was said after you got over there at the meeting place? Letme have that photograph. Is it here? What number is on that?

MARSHAL SERTEL: 87.

BY MR. HOOKER:

Q I show you here Government's Exhibit No. 87 and Your Honor permit me to go around here for a moment--, do you see the picture of an automobile here on this sideroad?

A Looks like one from here, yes.

Q Is that where you met?

A I'd say so, yes.

Q You would say that would correctly indicate where the automobile is shownin the picture?

A I'd say it would be close.

MR. BROWN: Would you move to the side so I could see the picture?

MR. HOOKER: Yes.

MR. BROWN: I don't mean to cut off the jury's view but stand on this side.

MR. HOOKER: Well, here is the car that I am referring to right here.

BY MR. HOOKER:

Q That's where you say this meeting took place on this night sometime after twelve o'clock?

A Right in that vicinity, yes, Mr. Hooker.

Q Now, that is shown one car. Where did you pull your car up?

A As I turned off of the highway I pulled in the front of the state highway patrol car or Mr. Pitts did, Mr. Pitts was driving the car.

Q Was driving your car?

A Yes.

Q And Paschal was driving the highway patrol?

A Well, it wasn't moving when we drove up there.

Q Well, he was standing there waiting for you.

A No, sir, he was sitting in the car if I remember.

Q That's what I say, the car was standing there. Now, did you get out of the car?

A Yes, sir.

Q Did you get in the patrol car?

A I most certainly did.

Q And where was the patrolman sitting?

A Sitting under the wheel of the patrol car.

Q Where did Mr. Pitts get in?

A He got into the front seat on the opposite side of the highway patrol.

Q And did you have a conversation?

A Yes, sir.

Q Didn't you tell him that you would get the promotion through Craig O'Rear from down at Franklin?

A No, sir.

Q Did you tell him that Frank Clement, through your pull from Frank Clement, Anna Belle and Craig O'Rear and Hilton Butler that you thought you could get him a promotion without any trouble?

A I did, sir.

Q You told him that. Did Paschal tell you that his wife was on the jury?

A Yes, sir, he did.

Q Then did you discuss the question of her being on the jury?

A No, sir.

Q Didn't you ask Mr. Paschal on that occasion out there, Mr. King, in this car, the patrol car that night, that you wanted to know if Paschal could talk to his wife?

A I did not. Now, just a moment, Mr. Hooker. Mr. Paschal, as I have already told the ladies and gentlemen of the court, mentioned his wife being on the jury only after he had asked me what they were going to do to Hoffa in

Nashville.

Q In other words, your statement to these ladies and gentlemen of the jury is that at this meeting that you all arranged with this highway patrolman whose wife was on the jury, that he was the one that brought up about his wife being on the jury.

A Now, first, Mr. Hooker, I arranged no meeting with the highway patrol.

Q Well, Pitts did it at your instance, didn't he?

A Sir?

Q Mr. Pitts did it with your knowledge, didn't he?

MR. BROWN: I'd like--

A (Interposing) No, sir, I had no knowledge at all that Mr. Pitts--

MR. BROWN: (Interposing) Wait a minute.

A Was going to arrange a meeting with the highway patrol or Mr. Paschal.

End 11

Tk 12 fol

Q Why, didn't you know, Mr. King, when Mr. Pitts left you there at his house that night and went to town that he was going to town to see Mr. Paschal, the highway patrolman?

A I did not. He was going after some Coca-Colas and cold drinks was my understanding.

Q Oh, he left you there near midnight to go after Coca-Colas and cold drinks?

A That is what I said.

Q And you had no idea that he was going to see Paschal?

A Not at all. None whatsoever.

Q And then he came back and told you he had arranged to meet Paschal out somewhere by the spring at this country meeting place you are talking about?

A You are absolutely right.

Q Well, what happened to the Coca-Colas and cold drinks? Did you just set them down and leave them?

A We drank them up, I believe some of them, Mr. Hooker. And in the normal recourse if any were left I think they might have put them in the refrigerator.

Q Did you drink them up before you left to go with this meeting with Paschal?

A Yes, sir, we had one.

Q You think you had a cold drink then?

A Yes, sir.

Q And you went on out there. All right. Now, then did you say to Paschal that you wanted to know if he could talk to his wife and didn't Paschal say that he wasn't getting along too good or something like that?

A Mr. Hooker, do I look stupid enough--

Q (Interposing) Don't ask me that question. Now, Mr. King--

A (Interposing) Driver in a highway patrol car with a man in full uniform and say, "I want you to talk to your wife about a jury bribe?" I don't believe I look that stupid. With a man I had never seen before, sir.

Q Well, were you stupid enough to go out on a rainy night after twelve o'clock to meet a highway patrolman somewhere in front of a spring that you didn't even know?

A I did not go to meet no highway patrolman at the spring as I have said before, Mr. Hooker. I went to Mr. Pitts' house at a time when it wasn't even raining, just mist-like.

Q Well, raining when you left, wasn't it?

A Yes, sir, it was.

Q And when you left didn't you know that you were going somewhere to a spring to meet this highway patrolman?

A That is exactly how I had been informed by Mr. (Mutt) Pitts, yes, sir.

Q And you got out there and you found the highway patrolman?

A Yes, sir.

Q And he just happened to be the one that had a wife on the federal jury in the Hoffa case?

MR. HAGGERTY: We object to that as argumentative.

MR. BROWN: Not only that, I didn't rise a while ago to object to any question Mr. Hooker was making but object to him screaming at this witness and trying to intimidate him. I ask the Court to admonish Mr. Hooker that he doesn't have to scream at this man. He is not hard of hearing.

MR. HAGGERTY: May I have a ruling on my objection?

THE COURT: Sorry, I didn't hear your objection, Mr. Haggerty.

MR. HAGGERTY: I made the objection, may it please the Court, that this is argumentative with the witness and repetitious.

THE COURT: Sustain that objection.

BY MR. HOOKER:

Q Now, Mr. King, after you talked out there to Mr. Paschal, you went back home did you not?

A I went back to Mr. Pitts' home.

Q Pitts' house?

A And then continued home, yes, sir.

Q And then didn't you say that you didn't think you could do much good with Paschal? Didn't you ask, "Reckon Paschal that he would talk to his wife?"

A Who is this conversation supposed to be with?

Q This is a conversation between you and Mr. Pitts that you heard him testify about?

A No, sir, most certainly is not true.

Q And didn't you further ask, "Reckon Paschal would talk to his wife," and finally left the house about 2:10 o'clock in the morning?

A I do not remember the exact time I left, Mr. Hooker, but I did not ask him to talk to his wife.

Q And didn't you also in that same conversation ask about Pitts, what kind of woman Mrs. Paschal was?

A No, sir.

Q You did not?

A No, sir, I had no reason at all, Mr. Hooker, to discuss about Mrs. Paschal.

Q Now, let me see that. Now, I want --, now you went out to the terminal and had a conversation with Mr. Pitts on one occasion, didn't you?

A On more than one occasions, Mr. Hooker.

Q And did you go out there on November 16th, the day before this meeting at Woodbury?

A I do not remember the dates, Mr. Hooker. As I

said before, Mr. Pitts was the job steward who administered his duties under the contract that he worked under and I almost saw Mr. Pitts every day or he called me one about some problem concerning his operations.

Q And didn't you go by to see him the day before you went to Woodbury?

A I had been to the terminal, Dixie-Ohio Express terminal, several times to see Mr. Pitts. As I said before, I do not remember the days that I was there.

Q And didn't you have an understanding that day that you would come to Woodbury or not the next night provided he gave you the signal to come?

A None whatsoever. That is absolutely a falsehood.

Q And didn't Mr. Pitts call you that night and tell you that his beagle hound had died?

A He did, sir, on the night of the 17th, that's right.

Q And didn't you know that he was going to call you that night?

A Call who that night? Call him?

Q Didn't you know that Pitts was going to call you?

A I did not. I had no way of knowing who was going to call me and I would like to say this, too, Mr. Hooker, that I went down to talk with Brother Pitts that night and for the reason to get away from the telephone because I was

receiving a series of telephone calls and had been for a long time and I felt that this would be a little bit of relaxation to drive out for a little while and so I informed my wife where I was going to.

Q Drive out to Woodbury what, leave what time?

A I think it was between 6:00 and 7:00 o'clock. I'm not sure.

Q And what day of the week was it?

A It was on a Saturday. As we have established.

Q And what time did you get home?

A Sir?

Q When did you get home that night?

A I got home the next morning some time. The morning of the 18th.

Q What time, three or four o'clock in the morning?

A Yes, sir, I believe it was.

Q Now I want to ask you about your conversation also that night in the car. First before I get to that, didn't you know when he called you that night and told you about the dog dying, the beagle hound dying, wasn't that an agreed signal between you?

A Mr. Hooker, I've answered that and that was not an agreed signal between us. If it was agreed signal, it was between somebody with the government, it wasn't with me.

Q This man Pitts I believe you said is a good friend

of yours?

A He is.

Q Do you know any reason why he would tell a falsehood?

A No, sir.

MR. HAGGERTY: I object to that.

THE COURT: Sustained.

THE WITNESS: The only reason I know --

MR. BROWN: (Interposing) Wait a minute, Mr. King.

THE COURT: Sustain the objection.

BY MR. HOOKER:

Q Now, in your conversation that night out there at the spring this rainy night, I want to ask you now about what was said by Mr. Paschal, didn't Mr. Paschal ask you what you wanted and didn't you tell him that you wanted to see him about helping him get a promotion?

A Mr. Paschal did not ask me what I wanted to see him about. This is absolutely wrong.

End 12a
12b fls

Q And didn't you ask Mr. Paschal to get out of his car that you were afraid it was bugged.

A I did not. Mr. Paschal asked me to get into his car after Mr. Pitts had already gotten out of our car and had talked to Mr. Paschal, Pitts come back and said, "Let's get in Paschal's car", and I got out, I didn't want to get out because it was raining.

Q And didn't Paschal say at that time to show you that his car wasn't bugged, "Damn Hopton."

A He said what?

Q "Damn Hopton."

A No, sir, he certainly didn't.

Q You know who Hopton is, don't you?

A Well, I don't know if I do or not.

Q Well, he is the head of the Tennessee Bureau of Investigation, isn't he?

A Well, I know Mr. Hopton. I mean I have heard of him. I don't know him.

Q And you deny that that was said?

A I do deny it. Certainly do. I have to tell the truth, Mr. Hooker.

Q Now then, didn't you ask him there, didn't you ask Paschal if you hadn't known him from somewhere that night?

A I do not remember asking him if I hadn't known him from somewhere.

Q You deny that?

A I do deny it emphatically.

Q Didn't you talk there awhile about various members of the highway patrol and trucks operating through that area?

A Yes, sir, we talked about the truck problems, the problems the drivers had, and the highway patrol also because I know many of those fellows.

Q Didn't Pitts, when he introduced you to--, introduced Paschal to you that night tell Paschal that you were the boss at Nashville and head of the union office down there?

A The way I remember him introducing me as Mr. King.

Q Then didn't you, didn't you say to Paschal that your wife is on the jury.

A No, sir, I certainly did not which I have answered repeatedly.

Q And didn't you ask Mr. Paschal, I'm referring about your conversation with him, if he couldn't talk to her and he told you that he couldn't talk to her that "we aren't getting along too good."

MR. BROWN: Your Honor, I don't mind him asking these questions but they are being asked four or five times.

THE COURT: Yes, I believe I have sustained that.

THE WITNESS: Mr. Hooker, I have told you--

MR. BERKE: (Interposing) Just a minute, let the Court rule.

THE COURT: Yes, sir, I believe that question has been asked.

MR. HOOKER: All right, Your Honor.

BY MR. HOOKER:

Q All right, withdraw that and didn't Mr. Paschal finally tell you that he would talk to her?

A He did not. We had no such conversation.

Q You deny that?

A Yes, sir.

Q Did Mr. Paschal tell you that he didn't want to get involved in anything talking about it, didn't want it mentioned because he wasn't supposed to--

A (Interposing) No, sir, he sure didn't.

Q You deny that?

A Yes, sir.

Q All right, you say that what you have told this jury about this meeting there on the road by the spring where this car is indicated in this picture is all that took place there that night?

A Was it supposed to be something else took place?

Q Well, I've asked you about something else and you have denied it; you say that what you have said about that is all took place?

A I have told you the context of the subject matter that was there, yes, sir, in this meeting there.

End 12B

13 fol

Q And you claim that Paschal is the one that first mentioned the fact that his wife was on the jury?

A Mr. Hooker, I don't claim this, I am merely telling this jury, you, this whole court and the courtroom full of people, that he is the one that mentioned about Mr. Hoffa's trial in Nashville and that his wife was on the jury.

Q You deny--you deny that you told him--

MR. BRANSTETTER: (Interposing) May it please the Court, let's let the witness answer and quit cutting him off.

BY MR. HOOKER:

Q Go ahead, Mr. King, I thought you were through.

A That's all.

Q You deny that you told him that night that if he talked to his wife on the jury that you thought you could get him a promotion?

A I do, Mr. Hooker, I sure do.

Q Now, Mr. King, when did you first become acquainted with Mr. Partin?

A In Nashville during the trial there.

Q Do you remember about when in the trial?

A No, sir, I do not.

Q Do you remember where it was when you first saw him?

A I do not remember that either, Mr. Hocker, I am

sorry but I just don't remember the first time I saw him.

Q Did you see him--I may have asked you this, if so, I apologize for it, but I want to know, I don't recall what your answer was--did you see him on occasions in the courthouse?

A While the trial was going on?

Q Yes.

A Yes, sir, I saw him around the courthouse at recesses and things of that kind.

Q Did you ever meet with him, did you ever go to lunch, dinner or lunch with him at O'Brien's Beefery?

A I certainly did not, no, sir, dinner, breakfast or supper.

Q Now, I want to ask you--well, did you have any misunderstanding with Mr. Partin while he was there?

A No, sir, I had no understanding or misunderstanding.

Q Well, you all got along together all right?

A Well, we got along, I don't know whether you would say together or not, he got along his way and I got along mine.

Q And you saw, I believe, you stated, every two or three days?

A Yes, sir, I would say that most of the time I saw him every two or three days.

Q Do you know where he was staying?

A And maybe some time more often than that.

Q Sometimes more often?

A Yes.

Q Where else did you see him besides the times when he was sitting in a chair there by the door leading into Hoffa's room, where else did you see him besides that?

A I saw him on the street, I saw him in the lobby, I saw him in the halls of the courthouse, I saw him in the halls of the Andrew Jackson Hotel.

Q Andrew Jackson Hotel. Now, I want to ask you that if you stated to him that one of the jurors had a highway patrolman husband and that you were going to try to have someone contact the highway patrolman and told him about where they lived and--did you tell him that?

A I certainly did not.

Q You say that you never mentioned a highway patrolman to Mr. Partin?

A I believe you heard me right, yes, sir.

Q And you didn't say that you knew some lady that she lived out close to the highway patrolman, about 70 miles, that was a good friend of Mrs. Paschal's?

A No, sir, I did not say that either because I didn't know any lady that lived out close.

Q That you were going to get her to come into court

A The truth of the matter is, Mr. Hooker, I didn't even know where this fellow lived that you are talking about, other than Woodbury, this highway patrolman.

Q You don't know where Paschal lives?

A No, sir, nothing more than Woodbury, around Woodbury.

Q You do know where Mr. and Mrs. Pitts live, don't you?

A Well, yes, sir, I think I told you I went to their home.

Q Didn't you say, tell him, tell Partin, that you were going to talk to her and get her to talk to Mrs. Paschal and to take her back home with her?

A I didn't.

Q Back home?

A Mr. Hooker, I didn't tell Partin anything. He did most of the telling to me when I was in his presence.

Q Well, did you tell him on another occasion that the highway patrolman and his wife had money but that they loved money and that $10,000 was a lot of money?

A I did not nor would I have known that the highway patrolman and his wife had money because I knew nothing of these people.

Q And you deny that you made any statement like that?

A You heard me, sir.

Q Now, did you have a jury list?

A No, sir.

Q You never at any time?

A No, sir. I may have had one in my hand at a time but as far as having a jury list, no, sir.

Q Well, where did you have it, in your hand?

A Well, either be my right or left one.

Q Well, I understand that you just have two hands, I see.

A Yes, sir; yes, sir.

Q But I mean whereabouts, what place?

A What location?

Q Yes, sir.

A I believe it would have been in Mr. Hoffa's room that I might have had looked at it.

Q At the Andrew Jackson Hotel?

A Yes.

Q How many copies of the jury list did they have up there?

A I do not know.

Q Well, how many did you see?

A I said one, I believe.

Q You had one?

A Yes, sir, I didn't have one, I said I saw one,

Mr. Hooker.

Q Well, did you say you had it in your hand? I understood you to say you had it in your hand.

A I said I believe I picked it up and looked at it.

Q Picked it up?

A And this was only after they had been made public anyway in the newspaper.

Q In what stage of the trial was it that you saw and had in your hand this jury list?

A I do not know, Mr. Hooker, it's probably the first week of the trial.

Q Some time during the first week of the trial?

A Yes, sir. I don't remember the time specifically and I wouldn't say for sure but I believe I did glance down the jury list one time in Mr. Hoffa's room and I don't think he was even present at the time, maybe I was waiting to see him.

Q Was anybody else present when you were looking at it?

A I don't remember anybody being there.

Q Did you know anybody on it?

A No, sir.

Q Now, didn't you tell Mr. Partin that you were going to take the jury list and circulate out in the Paschal neighborhood in the afternoon and where the highway patrolman

hung out, that you were going to take the jury list with him so you could get to some of his closer friends and see if they knew anybody on the jury that they could get to?

A Now, first, Mr. Hooker, I don't know where the highway patrol hang out and again, for the sixth or seventh or eighth time, I will tell you that I did not tell Mr. Partin anything about the highway patrolman, Mr. Paschal, or any other patrolman.

Q Didn't you--oh, you deny that then?

A You heard me, sir.

Q Then on a later occasion did you tell Partin that you thought the highway patrolman still would go along?

A No, sir.

Q And that you were supposed to meet with him the following Sunday at a spring in the back of a farm, that they were going to take some coon dogs so that if anyone came upon them they could say they were coon hunting and that the meeting was supposed to take place at twelve o'clock that night?

A Actually, Mr. Hooker, that conglomeration of words doesn't make sense to me but I am not sure what you are talking about.

Q What I am trying to get at, did you tell Mr. Partin about this meeting that you were going to have at twelve o'clock at night out here on this road?

A I told Mr. Partin nothing, Mr. Hooker.

Q And when you went on that meeting that night the FBI followed you, you said, didn't you?

A They left my home at the same time in behind me, yes, sir, the FBI, yes, sir, or some unmarked car, some unknown car did, yes, sir.

Q Did they follow you at the filling station where you changed these cars with Mr. Broda?

A I didn't change no cars at a filling station, plus you have to understand, Mr. Hooker, that not only was it this night but it was every time I went or came to my home that I was followed.

Q I am asking you about this night. Did they follow you to the--it was a restaurant, wasn't it?

A I don't know whether they--

Q (Interposing) Did they follow you to that point?

A Sir--

MR. BROWN: (Interposing) Let him answer, Mr. Hooker.

BY MR. HOOKER:

Q Go ahead and answer.

A I don't know where they lost contact with us or with me but I do know that they had left, they had been parked in the shopping center and pulled out in behind me and followed me toward Murfreesboro road, traffic was pretty

heavy and whether they followed me all the way I--I had already become accustomed to it and I felt that I had an escort every place I went.

Q Did you see--

A (Interposing) And was being protected.

MR. BERKE: Just a minute, Mr. Hooker.

BY MR. HOOKER:

Q All right. Go ahead.

A I felt I had an escort and was being protected by the United States Government, only to find out that I wasn't.

Q Did you see anybody waiting for you at Woodbury?

A Sir?

Q Did you see anybody when you got to Woodbury that looked as if they were following you?

A I drove straight through Woodbury, Mr. Hooker, and I did not see anybody that looked as if they were waiting for me, no, sir, I did not.

End Tk 13
13A fls.

Q Do you know on that particular night -- you have heard these FBI agents testify, haven't you?

A Yes, sir, I sure have.

Q Do you on that particular night, rainy night, when you had this meeting out here at 12:00 o'clock in front of that spring, how the FBI knew to follow you unless you had told Partin that you were going on this trip?

A I have said to you, Mr. Hooker, that these people left home with me, I suppose that is the way, and I will go a little bit further with you to say that they knew everywhere that I went because they went with me and remained most of the time at a meeting or at the hotel or wherever I was and left with me when I left. This went on continuously all the time I was -- all the time the trial was going on.

Q Now, on that night coming back there was an FBI agent in front of you, wasn't there?

A I don't know, sir, whether there was.

Q Well, did you run onto a car that night that appeared to be in some sort of difficulty?

A Yes, when I got to my home, which I have testified to, there was a car parked across the highway.

Q Did you recognize the man?

MR. BROWN: Let him answer, Mr. Hooker, please.

MR. HOOKER: All right.

BY MR. HOOKER:

Q Go ahead if you have got anything else.

MR. BROWN: I know you don't like it.

MR. HOOKER: Yes, I like it, I want to hear more.

A I said I picked up a car -- a car picked me up when I left Old Donaldson Pike going towards my house, which was only a few hundred yards, and after turning on Benson Drive, the street I live on, here was a car parked across the road in a curve with the hood up as if he was in some difficulty.

Q About 4:00 o'clock in the morning?

A Well, I will say it was somewhere around 4:00 o'clock, yes.

Q Now, unless they got the information from Mr. Partin that I asked you about, do you know how they would know to follow you to Woodbury?

MR. BERKE: If your Honor please, that would be argumentative. We want to object to that form of a question.

MR. HOOKER: Withdraw it.

THE COURT: Sustained.

MR. BERKE: Just a minute.

THE COURT: Sustained.

MR. BERKE: All right.

BY MR. HOOKER:

Q You claimed that you didn't tell Partin. Did you tell anybody else that you were going to Woodbury?

A No, sir, Mr. Hooker, I didn't know I was going to Woodbury until I was called and asked if I could come down, I had no knowledge of going to Woodbury.

Q Where were you when you were called?

A I was in the living room or the den of my home at Nashville.

Q About what time was that?

A It must have been around 6:00 o'clock, I am not sure what time it was, but it must have been around 6:00 o'clock, I left immediately thereafter.

Q And was that the conversation about the dog?

A Mr. Pitts told me on the phone that one of his beagle hounds had died and he thought he knew where we could buy some more if I wanted to come down and discuss it.

Q And discuss it?

A Yes.

Q So you really went down to Woodbury that night in the nighttime to discuss about buying another coon dog?

A Mr. Hooker, you don't hunt rabbits with coon dogs.

Q Well, beagle hounds.

A Yes, sir.

Q Huh?

A Beagle hounds, that --

Q (Interposing) You wasn't hunting rabbits that night, you were hunting jurors, weren't you?

MR. SILETS: I object.

MR. BROWN: Object.

MR. SILETS: Highly improper. Ask the Court to admonish.

MR. BERKE: We object.

MR. SILETS: Your Honor, I move that the Court withdraw a juror and declare a mistrial here. Mr. Hooker knows much better than that. We have asked 15 times for both Mr. Neal and Mr. Hooker to be admonished and every move that he is making now is calculated to prejudice these jurors and he knows it.

I ask that the Court declare a mistrial at this time.

THE COURT: Overrule the motion for mistrial.

MR. BERKE: If your Honor please.

THE COURT: Let's stay to the question.

MR. BRANSTETTER: All defendants join in the motion.

MR. BERKE: I believe the defendant is entitled to some protection by the Court, if your Honor please, and I think that Mr. Hooker should refrain from making such comments.

THE COURT: Yes, let's refrain from commenting.

MR. SILETS: I don't think that kind of admonition has been sufficient, it hasn't been sufficient in the past, and

I suggest the Court severely reprimand him.

THE COURT: All right. Let's proceed, gentlemen.

BY MR. HOOKER:

Q Was there anything said?

MR. SILETS: May I take an exception to the Court's comments, sir?

THE COURT: Yes.

BY MR. HOOKER:

Q Was there anything said at the conversation at your home this night over the telephone about getting a promotion for Paschal?

A No, sir, there was not.

Q It was all about beagle hounds?

A Absolutely, it was very short.

End 13a
14 fls

Q And it was to buy a beagle hound to take the place of the one that had just died?

A It was to discuss with him about the place he thought he could get some more if we wanted to buy them together, yes, sir.

Q Did you tell any living human being with the exception of your wife before that time or at that time or at any time that night that you were going on this trip to Woodbury?

A Did I what, Mr. Hooker?

Q Did you tell anybody that you were going up to Woodbury that night?

A I couldn't have told nobody I was going to Woodbury, Mr. Hooker. I didn't know I was going to Woodbury until I decided after this telephone call that I would drive down to Pitts' house.

Q Now, when you got in touch with Mr. Broda, did you tell him you were going to Woodbury?

A I did not, sir.

Q And did you tell him where to meet you?

A Yes. I asked him to meet me over at Martin's Restaurant, bring his car over there. No secret. No secret at all.

Q Did he call you or did you call him?

A I called him, sir.

Q Why did you call George Broda?

A In order to try out this 1959 Ford. Drive it on a little lengthy trip and see whether it was good or no good. Incidentally, Mr. Hooker, this is the same George Broda, he is the same one who has got one hundred jumps in the United States Army and fought in Korea and fought in World War II and worked for me two-and-a-half years.

Q He wasn't along?

A And who was threatened to be deported by the FBI.

Q Since you have finished your speech, he wasn't with you when you approached this juror's husband?

A I did not approach this juror's husband.

Q I mean, his jumps have got nothing to do with you talking to the highway patrolman, has it?

A No, sir, not about him jumping. But I just wanted you to know his character is of that nature.

Q I understood that is what you wanted to show.

A Did you understand why the government wanted to deport him?

MR. BROWN: Your Honor, I object to Mr. Hooker arguing with the witness.

THE WITNESS: If he didn't lie on me.

THE COURT: Respond to the question.

BY MR. HOOKER:

Q What I want to know is, did you tell Mr. Broda

that had all these jumps that you were going to Woodbury to see somebody about a beagle hound?

A I did not.

MR. BROWN: Your Honor, I object to Mr. Hooker hollering. I don't object to any questions he is asking this witness that are relevant. But I do object to him trying to intimidate this witness by screaming at him.

THE COURT: All right.

BY MR. HOOKER:

Q Why didn't you tell him?

A Why didn't I tell him?

Q Yes, sir.

A I had no reason to tell him.

End 14
14a fls

Q Did you tell your wife where you were going?

A Certainly did.

Q Is she the only person you did?

A The children were there in the house, some of them.

Q Well, now, can you give any way, any other reason, how these FBI that testified here, that saw you at Woodbury knew that you were there unless they got it from Partin?

A I feel reasonably sure that I have already told you Mr. Hooker, that when you are completely aware of anywhere from two to four automobiles loaded with agents all the time following you around, this should have been sufficient proof for them to know my whereabouts.

Q But you didn't see any of them at Woodbury?

A Sir?

Q You saw the agents going up and then you saw them coming back just before you got--

A (Interposing) I saw no agents at Woodbury.

Q You didn't see the ones that were there if they were there?

A That is right. I didn't testify I saw any agents at Woodbury.

Q Now, didn't you in addition to that tell Mr. Partin that Mr. Hoffa was getting on you about not getting to the jury like you told him you would?

A Mr. Hooker, I did not tell Mr. Partin no such statements.

Q Well, did Mr. Hoffa ever get on you?

A He certainly did not. Most certainly he did not.

Q Did you tell Mr. Partin when you got back about having made the contact with Paschal?

A No, sir, I did not.

Q You deny that?

A Because I made no contact with Paschal other than talking to him about a promotion.

Q And did you tell Partin, Mr. Partin, that Mr. Hoffa said that he was wanting to get some insurance?

A I told you before Mr. Hooker and I will tell you again I did not discuss anything of this nature with Partin.

Q You deny all of that?

A You heard me right, sir.

Q From beginning to end categorically?

A You heard me right, sir.

Q Now, Mr. King, after this trip to Woodbury, when were you notified that the government knew that you had been and made this trip? That you had made this trip?

A I don't remember the specific date, Mr. Hooker, but it was one day up at the courthouse.

Q Well, how long after the trip?

A It was a short period of time. I don't know how

long. Maybe a day or two days.

Q Two days?

A I do not remember the specific date that I was called into the court.

Q Then I want to ask you since you have testified about it in chief, I want to ask you that if you weren't taken in, didn't go into Judge William E. Miller's chambers?

A No, sir.

Q Was the hearing in the courtroom?

A That is where I was taken, yes, sir, in the courtroom.

Q In the courtroom?

A Yes, sir.

Q Was it public or private hearing? Were there spectators there?

A I don't remember any spectators.

Q Sir?

A I don't remember any spectators, sir.

Q Well, as a matter of fact, wasn't the spectators excluded from the courtroom?

A Could have been.

Q And wasn't all the lawyers there?

A Yes, sir, there was lawyers there.

Q Mr. Hoffa there?

A Yes, sir, he was.

Q This was in Nashville, Davidson County, Tennessee?

A Sure was.

Q And how long after the trial commenced?

A I don't remember the date, Mr. Hooker. As I said, I don't remember how long it was after the trial commenced. The incident happened and I don't remember the date. I had no reason to remember.

Q Well, to refresh your recollection was it on December 6, 1962?

A If that is what the record shows, it was, yes, sir.

Q And in the United States District Courthouse?

A Yes, sir.

Q Up until that time, since thecommencement of the trial on October 22, you had been present in court at the trial of the case of United States versus James R. Hoffa, every day or practically every day that it had been in progress, had you not?

A Every day that I could I was there, Mr. Hooker, yes, sir.

Q I want to ask you if Judge Miller didn't ask you this question and if you didn't make this answer.

"Mr. King, I am investigating a matter. It is only fair to you--

MR. SCHIFFER: (Interposing) Objected to, Your

Honor, at this time. Now we are going into an area that is highly prejudicial.

THE COURT: Let me see the question. May I see the question?

MR. HOOKER: Shall I pass it up?

MR. BRANSTETTER: May it please the Court, we have objected and asked for admonitions many times.

MR. HOOKER: He opened it up, if Your Honor please. They opened it up. Prove what took place and I want to ask him what he was asked.

THE COURT: I will sustain the objection.

MR. HOOKER: Well, I won't then, of course, ask you what you were asked, but did you as you have stated on your direct examination at that time take the Fifth Amendment?

MR. SCHIFFER: Objected to, Your Honor.

MR. BROWN: Objected to.

MR. SCHIFFER: I move for a mistrial and now ask for withdrawal of a juror. I don't know how many times Your Honor is going to caution Mr. Hooker. He evidently--

MR. HOOKER: (Interposing) Leading up to another question. He testified to it in chief.

MR. SCHIFFER: May I state my objection, Mr. Hooker?

THE COURT: Sustain the objection.

MR. SILETS: Your Honor, may I move for a mistrial

and in the alternative for a severance?

THE COURT: Overrule that motion.

MR. BRANSTETTER: Same motion on behalf of the Defendant Campbell, Your Honor.

THE COURT: Let it stand on behalf of all defendants. Overruled as to all defendants.

MR. HOOKER: Your Honor sustains the objection?

THE COURT: Yes, sir.

MR. HOOKER: I will ask Your Honor to pass on this. I don't want to be in violation of Your Honor's rule.

BY MR. HOOKER:

Q Did you see on that occasion and this hearing before Judge Miller--

MR. SCHIFFER: (Interposing) Objected to, Your Honor. Should there be anything concerning this material issue before Judge Miller, may we have the jury excused and so that we can understand once and for all whether Mr. Hooker understands the Court's direction and I think since we are dealing with what Your Honor ruled to be prejudicial area that we should have it on the voir dire without the jury present.

MR. HOOKER: This is the last question I have to ask him.

MR. SCHIFFER: On that last question.

THE COURT: Well, in order to avoid any possible

problem, gentlemen, if you want the right to question, submit it to the Court or otherwise proceed.

MR. HOOKER: I can pass it up to Your Honor in another way I think that will identify what I want to show.

THE COURT: All right.

MR. NEAL: I might point out, Your Honor, that this man on direct--

THE COURT: (Interposing) Mr. Neal, let's don't argue. It will start an argument back and forth here.

MR. NEAL: Very well.

MR. HOOKER: I have written on there what I expect to ask about that. I hope it is intelligible if Your Honor please.

THE COURT: I will sustain the objection.

BY MR. HOOKER:

Q All right, Mr. King, as I understand your testimony you deny that you had any conversations with Mr. Paschal about talking to his wife.

A I did.

Q You deny that you had any conversation with Mr. Pitts about Paschal talking to his wife?

A What I have said in the record is true.

End 14A

15 Col.

Q And you deny that you told Mr. Partin anything about talking to Paschal about his wife?

MR. BROWN: Your Honor, by the questions that Mr. Hooker is putting to this witness he admits he had asked them four or five times.

THE COURT: Overruled.

BY MR. HOOKER:

Q Is that your answer?

A Sir?

Q Is that your answer?

A What was the question, Mr. Hooker?

Q I say, you deny that you talked to Mr. Partin about Paschal talking to his wife?

A I had no occasion to talk to Mr. Partin about Mrs.Paschal or any other juror.

Q And you tell the jury that your meeting on this particular night at this particular place was completely without any reference to any jury tampering?

A It certainly was, Mr. Hooker, and I wouldn't, I would not have this jury to know anything but the truth of what did happen.

MR. HOOKER: That's all.

MR. BROWN: One question, if I may ask it from here, Your Honor.

THE COURT: All right.

REDIRECT EXAMINATION

BY MR. BROWN:

Q Mr. King, since you have arrived at this trial, have you been under surveillance constantly?

A I have, sir.

MR. NEAL: Your Honor, I move that that be stricken. That has been alleged and certainly has not been proven at all.

MR. BERKE: If Your Honor please--

MR. NEAL: (Interposing) And it's not true.

THE COURT: Gentlemen, let's proceed.

MR. NEAL: And it's not true.

MR. BERKE: If Your Honor please, when he states that we state to the contrary that it is true.

THE COURT: Overrule the objection.

MR. BROWN: Come down.

MR. NEAL: Your Honor, we would like, we think that we are entitled to bring out what Mr. Hooker passed up to Your Honor, I wonder if we could maybe resume argument?

THE COURT: I will take it up at the noon recess and consider it further.

MR. NEAL: Then we have that reserved, right?

THE COURT: Yes, you reserve the right.

MR. BROWN: I didn't understand the question, Your Honor.

THE COURT: Well, the last question that Mr. Hooker passed up to the Court the Court will reserve any ruling on that at this time.

MR. BROWN: I would like to state at this time, with all deference to the Court, that we are prepared to make an affidavit if Mr. Neal wants on this last surveillance question.

THE COURT: Well, if we are going to resume that matter I'm going to strike it from the record.

MR. BROWN: All right, Your Honor.

(Witness excused.)

End 15

15A fol

MR. DALE: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. OWEN: I do.

MR. DALE: Have a seat, sir.

PARK OWEN,

a witness called at the instance of the Defendant King, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BROWN:

Q Will you state your name and residence, please?

A Park Owen; Nashville, Tennessee.

Q By whom are you employed, Mr. Owen?

A I am with Dobson and Johnson Real Estate Company.

Q Speak up just a little bit louder, please, sir.

A Dobson and Johnson Real Estate Company.

Q And how long have you been with this company?

A Approximately two and a half years.

Q Prior to that time with whom were you associated?

A I was with the Associates Finance Corporation.

Q And in that capacity what was your particular job?

A I was loan manager mostly.

Q Any particular kind of loans?

A Mainly automobile loans.

Q Now, Mr. Owen, do you know Ewing King?

A Yes, sir, I do.

Q How long have you known Ewing King?

A Approximately 10 to 12 years.

Q And what has been the occasion of your acquaintance with Mr. King?

A Financing automobiles.

Q And has he financed few or many automobiles during the period that you have known him?

A Quite a few, sir.

Q And has this been cars that he has owned and sold and traded?

A That is right, sir.

Q Would you say that he has far exceeded the normal person's swapping and trading cars or jockeying cars or would you say that his actions are the normal car owner?

A Oh, he had many cars, he traded quite a bit.

Q Now, Mr. Owen, you say you have known Ewing King 10 or 12 years. Do you know his general reputation in the community where he lives and works?

A Yes, sir.

MR. NEAL: Your Honor, we object to general reputation. If he wants to limit--a limited reputation for truth and veracity, of course, I think it would be proper.

MR. BROWN: I will get to that. I never heard

the foundation put that way before.

THE COURT: Overruled.

BY MR. BROWN:

Q You say yes?

A (Witness moves head up and down.)

Q Is it good or bad?

A Good, sir.

Q And based on that reputation would you give him full faith and credit in a court of law?

A Yes, sir.

MR. BROWN: You may ask him.

CROSS EXAMINATION

BY MR. NEAL:

Q Mr. Owen, you say you know the Defendant King's general reputation and you would believe, you would give him credit on the stand, is that correct?

A Yes, sir.

Q Do you know anything about, does your knowledge of him include what he might or might not do on the stand when he is being tried for an offense and testifying in his own behalf?

MR. SCHIFFER: Object to the form of the question, your Honor.

MR. BROWN: The question that he just answered was that he would give him full faith and credit.

THE COURT: Sustain the objection.

MR. NEAL: No further questions, no further questions.

THE COURT: All right.

MR. BROWN: May this witness be excused? I understand he has to go to New Orleans.

THE COURT: All right. Without objection he may be excused.

THE WITNESS: Thank you.

(Witness excused.)

MR. DALE: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. DYER: I do.

MR. DALE: Have a seat.

BERNICE DYER,

a witness called at the instance of the Defendant King, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BROWN:

Q Will you state your name and residence, please?

A Bernice Dyer; 3717 Yelton Drive, Nashville, Tennessee.

Q Mr. Dyer, by whom are you employed?

A Associates Finance Corporation.

Q In what capacity, sir?

A Manager of the repossessed cars and the handling of the company cars.

Q Is that in Nashville, Tennessee?

A Yes, sir.

Q How many lots do you have there?

A Two.

Q Mr. Dyer, do you know Ewing King?

A Yes, sir.

Q How long have you known Mr. King?

A About eight years.

End Tk 15A
15B fls.

Q What has been the nature of your acquaintance with Mr. King?

A Well, in the last five years I have been closely acquainted with him, I mean I have done quite a bit of business with him dealing in automobiles.

Q Other than that have you had any relationship with him on civic affairs?

A Well, prior, I mean while he was president of the Teamsters in Nashville I was president of the Cerebral Palsy group, on three occasions he helped us out at the school on donations, plus donating a wheelchair.

Q Now, during this period you say of the last eight years you have known him have you had occasion to finance, trade, swap automobiles with Ewing King?

A Yes, sir, in the last five years.

Q Would you state that the number of times that it has been occasioned by Mr. King trading or swapping with you would be the normal car owner or would you say it would be in excess of that?

A There's a lot of people like him, he is like myself, I guess, likes to switch automobiles, I mean, and we have several people that do trade cars quite often.

Q To your knowledge you do know that he trades and swaps quite a bit?

A Yes, sir.

Q During the period you have known him?

A Yes, sir.

Q Based on the eight years you have known, do you know his general reputation in the community there where he lives?

A It's always been good, I don't know a thing in the world against Mr. King in no way.

Q Based on that reputation would you give him full faith and credit on his oath in a court of justice?

A Yes, sir.

MR. BROWN: You can ask him.

CROSS EXAMINATION

BY MR. NEAL:

Q Would you give me your last name again, sir?

A Dyer (spelling) D-y-e-r.

Q (Spelling) D-y-e-r. Do you know what church, if any, Mr. King goes?

A Nazarene, I believe.

Q Nazarene?

A I believe, now, I don't know for sure.

Q You don't know?

A No, sir.

Q You ever visited in his home?

A Never been in his home.

Q Pardon me?

A Never been in his home.

Q You ever been out to social clubs with him?

A No, sir, I haven't.

Q Your dealings with him is limited to his swapping cars?

A That's right.

Q By buying, selling used cars?

A Yes, sir.

MR. NEAL: No further questions.

REDIRECT EXAMINATION

BY MR. BROWN:

Q I understand your testimony was you had been associated with him in the work of cerebral palsy?

A Yes, sir, he has contributed money to our group on three different occasions.

Q And you worked in that regard?

A Sir?

Q Did he work with you in that regard?

A Yes, sir. I contacted and asked him as a friend, I mean for a donation, which he gave to the local there in Nashville.

RECROSS EXAMINATION

BY MR. NEAL:

Q You mean his local union gave?

A That's right, I mean it was through him, in other

words.

Q You contacted him and his local union gave some money?

A Yes, sir.

Q Well, that's what you mean by "working," you contacted him for a donation?

A Yes, sir, I mean his working with us, I mean at the first donation he said he felt like he hadn't done enough and later went and bought a special-built wheelchair for the child.

Q That's what you mean by working with him, though?

A That's right, through the -- outside of the car deals.

THE COURT: All right. May this witness be excused?

MR. BROWN: Yes, sir.

THE COURT: Without objection, you may be excused.

(Witness excused.)

MR. DALE: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, nothing but the truth, so help you God?

MR. ERVIN: I do.

MR. DALE: Have a seat.

H. D. ERVIN,

a witness called at the instance of the Defendant King, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BROWN:

Q Would you state your name and residence, please? Tell us your name and where you live, please.

A I am H. D. Ervin; from Franklin, Tennessee.

THE COURT: Mr. Ervin, if you don't mind, turn around this way so I can hear.

BY MR. BROWN:

Q What is your occupation, Mr. Ervin?

A Policeman, Franklin.

Q How long have you been so employed?

A 22 years.

Q How long have you lived in Franklin or Williamson County?

A Born and raised there.

Q How long have you known Ewing King?

A Ever since the early '30's.

Q Do you know his general reputation there in the community where he was raised and where he lives?

A Well, I think I do.

Q Is it good or bad?

A It's good.

Q And based on that reputation, would you give him full faith and credit on his oath in a court of law?

A I would.

CROSS EXAMINATION

BY MR. HOOKER:

Q Chief, since you are from my county I want to ask you a question or two about your opportunities to know him. Where does he live?

A He lives in Nashville at this time.

Q Whereabouts in Nashville?

A I don't know, sir.

Q Do you know any of his friends in Nashville?

A No, sir, I don't.

Q Do you know any of the people, any of the people in Nashville with whom he associates?

A No, sir, I don't know them only just I see them every once in a while out there at Franklin. Since he moved to Nashville he is out there every two or three weeks or four, I see him around out there.

Q You just see him on the square there?

A Well, he comes around and speaks to me and asks me how I am doing.

Q At the police station?

A Well, at the police station, up at the sale barn, about different places where I would see him.

Q Do you know any organizations that he belongs to in Nashville besides the union?

A No, sir, I don't.

Q Do you know anything about his -- what about his church attendance?

A No, sir.

End 15b
16 fls

Q How long ago has it been since he moved away from Williamson County?

A I think late '30's. I don't recall what year.

Q Thirty years or so. This is 1964. Twenty-five years anyway?

A Well, in the late '30's. I don't know, somewhere along in the '30's.

Q The extent of your acquaintance since then with him has been that you see him when he comes out there to Franklin maybe occasionally, to the police station, maybe at the barn?

A In the last few years, yes, sir. Since he went to Nashville I haven't had no dealings with him except he comes around and speaks to me and asks me how I'm doing, how things are going.

Q Have you talked to any of the people in Nashville that live in the same neighborhood where he lives about him?

A I don't even know none of them.

MR. HOOKER: That is all.

REDIRECT EXAMINATION

BY MR. BROWN:

Q You say you do see him? Just a minute. You say you see him quite regularly down there in Franklin, Williamson County?

A He is out there around the sale barn on Saturdays

different times when we have sales out there just knowing him he comes around and speaks to me and asks me how everything is going.

Q You have seen him regularly since leaving Franklin?

A Not very often.

(Witness excused.)

THE CLERK: Raise you right hand please. Do you solemnly swear that the evidence you will give in this case will be the truth, whole truth, nothing but the truth, so help you God?

THE WITNESS: I do.

THE COURT: Mr. Brown, I assume you are familiar with the published rules of the Court in regard to cumulative witnesses?

MR. BROWN: Sorry, Your Honor.

THE COURT: I say, I assume you are familiar with the published rules of the court about cumulative witnesses?

MR. BROWN: I still didn't understand, Your Honor.

THE COURT: I say, I assume that you are familiar with the rules of the court with regard to cumulative witnesses?

MR. BROWN: Well, Your Honor, it will just be these two. The rest of them will be factual witnesses.

MR. NEAL: Your Honor, I thought the rule was three. We have had three.

THE COURT: It has been for twenty years.

MR. BROWN: Do you want me to exclude this one?

THE COURT: Well, if that is the purpose--

MR. BROWN: (Interposing) This is a character witness. Sorry, I didn't understand the rule. May I have permission for this one or either way the Court rules? Sorry I didn't mean to impose on the Court.

THE COURT: I think we should follow the rules in that respect.

MR. BROWN: I will excuse this witness.

(Witness excused.)

THE COURT: All right, sir.

MR. BROWN: Call Mr. Tassey.

MR. NEAL: Your Honor, would now be a good time--, well, that is all right. Never mind.

THE CLERK: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case shall be the truth, whole truth, nothing but the truth, so help you God?

THE WITNESS: Yes, sir.

THE CLERK: Have a seat.

JAMES L. TASSEY,

a witness called at the instance of the Defendant Ewing King,

having first been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BROWN:

Q Will you state your name and your address, please?

A James L. Tassey. 2950 Sinbad Drive, Donelson, or Nashville 14.

Q What do you do for a living, Mr. Tassey?

A Drive a truck.

Q By whom are you employed?

A Super Service Motor Freight Company.

Q Are you a city driver or over the road driver?

A I'm over the road.

End 16
16A fol.

Q Do you know Ewing King?
A Yes, sir.
Q How long have you known Ewing King?
A Well, close to 17 years.
Q What respect has your acquaintance with Ewing King been mostly?
A Well, I have run up and down the road with him regularly.
Q Have you had occasion or on different occasions to ask Ewing King to assist you or to help some people get promotions?
MR. HOOKER: We object to that.
THE COURT: Sustain the objection.
BY MR. BROWN:
Q I will ask you specifically do you know James Paschal?
A Yes, sir.
Q How long have you known James Paschal?
A Ever since he was a kid.
Q Ever since he was a kid?
A Yes, sir.
Q Are you very closely associated with James Paschal?
A Yes, sir.
Q And did you ask Ewing King to get James Paschal

a promotion on the Highway Patrol?

A Yes, sir.

Q And when?

MR. HOOKER: We object to that.

THE COURT: Overruled.

THE WITNESS: Well, I asked him on numerous occasions. I don't know exactly how many times. But I asked the business agent, the president of our local, before Ewing was president, I asked Don Vestal to help Paschal. And then I have asked Ewing several different times.

BY MR. BROWN:

Q Are you familiar with the Hoffa trial that was conducted in Nashville in 1962?

A Well, I don't know what you call familiar.

Q Do you remember when the trial was going on in Nashville in 1962?

A Yes, sir. Yes, sir.

Q Were you in Nashville during the trial?

A No.

Q When did you leave Nashville?

A I believe I left on the 22nd or the 23rd of October. I couldn't say the exact date.

Q Let me have the calendar, do you know the day of the week?

A Well, it was on Tuesday.

Q Tuesday the 22nd?

A Before the trial started or right after it started, I couldn't say which.

Q Do you say the 22nd or 23rd? To refresh your memory here is a 1962 calendar.

A Well, I left the 23rd.

Q The 23rd?

A That was on Tuesday.

Q I believe the record shows the trial started the 22nd. Where did you go?

A Montana.

Q And how long did you stay?

A I came back on Tuesday before Thanksgiving.

Q Prior to your leaving Nashville I believe you stated the trial started the day before, prior to your leaving Nashville, did Ewing King ever contact you regarding your speaking to Paschal about his wife being on a jury panel?

MR. NEAL: Your Honor, there has been testimony in this record by the Witness Partin that King said Paschal's best friend was deerhunting in Montana. That is the reason he went to somebody else.

MR. BROWN: That is why we produced him.

THE COURT: Well, sustain the objection to the form of the question.

BY MR. BROWN:

Q Were you closer to Ewing King than Pitts? Do you know "Mutt" Pitts?

A Yes, sir, I know him.

Q Was your friendship with Paschal and King closer than Pitts' friendship with either of these men?

A Well, I don't know how close Pitts and Paschal are. I knew Pitts. But I wasn't close with him or anything. I don't know how close he was with Paschal.

Q Were you closer to King?

A I think so, yes, sir.

Q Now after you returned from this hunting trip to Nashville were you visited by the FBI or any of the government agents in regard to that trial?

A Yes, sir.

Q And what, if any, conversation did you have with the agents?

MR. NEAL: Your Honor, I don't think this is relevant.

THE COURT: Sustain the objection.

MR. BROWN: I am only, your Honor, trying to point out at this time --

MR. NEAL: (Interposing) Your Honor, I don't know what he is trying to bring out, but if it is irrelevant, it is irrelevant, whether the witness says it or Mr. Brown.

MR. BROWN: Lay the groundwork, if the Court

please, Mr. Partin testified this was the witness he testified was in Montana. Certainly I think the Court and jury is entitled to know his reasons.

THE COURT: I think he can say he had a conversation. I don't believe he can say what the conversation was.

MR. BROWN: Government agent, your Honor, I don't know any reason they wouldn't want it brought out.

MR. NEAL: Bring it out then. We object to his characterization of the record. Partin didn't say that the man said he was in Montana. King said Paschal's friend was hunting in Montana.

MR. BRANSTETTER: Object to that argument.

THE COURT: Well, it is about time for the noon recess. We will excuse the jury at this time then until 1:30. Ladies and gentlemen, observe the instructions the Court has always given you. Any time during recess, do not talk about the case, do not allow anyone to talk about the case with you. Be back at 1:30.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

THE COURT: All right, Mr. Brown, what is the general purpose that you have in mind, sir?

MR. BROWN: Your Honor, we want to prove that this man after the agents talked to him had a conversation with

him, it is our belief that that is where Partin got the idea that King had given him some information about this man's friend being hunting in Montana.

MR. NEAL: Your Honor, if that is --

MR. BROWN: (Interposing) And we think that any conversation he had with the FBI after he returned to Nashville will bear this out.

MR. NEAL: Your Honor, that would certainly be a collateral matter. We would have to bring in a number of witnesses that will testify that Partin told the FBI about it before he got back from Montana.

THE COURT: I will allow him to testify that he had a conversation with the FBI.

MR. BROWN: About his whereabouts, if your Honor please, we will restrict it to that, his whereabouts and what the conversation consisted of as to his whereabouts only. I don't mean to go off on any tangent.

MR. NEAL: Your Honor, they are opening up matters of memoranda with stamps on them, memoranda with stamps on them that this man was hunting in Montana and Partin said King said this man was hunting in Montana on certain dates long before the end of the trial.

MR. BROWN: Your Honor, the government indicated that in proof in chief.

THE COURT: Well, all right, I have indicated what

I think is a proper ruling.

MR. SILETS: Your Honor, is Mr. Neal referring to FBI reports concerning conversations Mr. Partin had with the FBI?

THE COURT: Well, I don't know what they are indicating.

MR. SILETS: If so, these are the very documents we have been demanding for four weeks.

End 16a
16b fls

MR. BROWN: This is what the government told us they didn't have any of.

MR. SCHIFFER: Your Honor, may we have those documents?

MR. BROWN: Reserving further--

THE COURT: (Interposing) If you will, please, yes, don't discuss your testimony with anyone. Do not allow anyone to discuss it with you. Be back at 1:30.

(Witness excused.)

MR. BERKE: Your Honor, can we have a clearing up of the response of Mr. Neal as to the statements?

THE COURT: Well, cake it up with Mr. Neal.

MR. SILETS: We ask the Court to direct the government to turn them over because if there are certain documents--

THE COURT: (Interposing) The Court has already directed the government to turn over everything.

MR. SILETS: On that basis, Your Honor, we move to strike the testimony of Mr. Partin because they have not complied with the Court's ruling.

MR.NEAL: That is just not true, not true, Your Honor. We turned over the notes of Mr. Sheridan. Mr. Sheridan testified that on occasions he told the FBI in synopsis form that he had been told at some earlier time and that is what I have reference to.

THE COURT: Well, the Court has already ruled on those matters, it is already a matter of record.

Now, are all exhibits accounted for?

MR. SAULPAW: Yes, sir.

MR. DALE: Yes.

MR. BRANSTETTER: May it please the Court, may I inquire is counsel representing that the stamped documents he referred to have all been turned over to the Court?

MR. NEAL: I am not representing anything except all of the Jencks statements.

Your Honor, we have one matter.

THE COURT: Yes.

MR. NEAL: That is we wanted to bring out, your Honor, that when the Defendant Ewing King in Nashville approached the witness stand and testified in the secret hearing the Defendant Hoffa gave him a sign to take the Fifth Amendment.

MR. HAGGERTY: I object to this argument. The Court has been apprised of it by reading the transcript.

MR. BROWN: It was denied.

MR. HAGGERTY: It was denied in court.

MR. NEAL: Well, it's denied, that's a matter for the jury.

MR. SILETS: I would like to state for the record Mr. Neal is grand standing for all these newspapers.

MR. NEAL: That has been a matter of public record, this here has been made public since--

MR. BERKE: (Interposing) Not the grand jury hearing.

MR. NEAL: This is not the grand jury hearing.

MR. HAGGERTY: The secret session, the secret session was not made public, your Honor, until Judge Miller released it subsequent to the trial.

MR. NEAL: That's right. So I am not grand standing here for the reporters, it has been available to him since December the 23rd, isn't that right, 1962?

MR. HAGGERTY: I say there is no object in your statement other than to apprise the press.

MR. NEAL: Well, we want, we want, we want to bring out the fact now, your Honor, we didn't open this up, we were not entitled to open up whether a man claims something or another, but they opened it up, they went into it and then he said, if your Honor will read the transcript, they asked him, "Did you claim your constitutional rights before Judge Miller?"

"Yes."

"Why?"

Now, we are entitled to cross examine him as to whether it was this why that he says or the why that Hoffa says.

MR. SILETS: Now, your Honor--

MR. BROWN: (Interposing) If your Honor reads the transcript--

MR. SILETS: (Interposing) This is the very problem we have when there is a joint trial. I didn't open it up on behalf of Mr. Dorfman, I am not suggesting who has opened it up. The very basis that the fact that Mr. Neal suggested somebody has opened it up, the jury is not hearing a defendant has taken the Fifth Amendment, this is prejudicial.

THE COURT: The jury is not present.

MR. SILETS: Yes, sir, but the point is that Mr. Neal now suggests that he wants to go into that.

THE COURT: Well, the Court has sustained the objection, gentlemen.

MR. BERKE: That ends it.

THE COURT: Mr. Neal can argue as long as he--

MR. NEAL: (Interposing) Your Honor said he would take it under advisement.

MR. BROWN: No, your Honor sustained the objection.

MR. NEAL: This is not prejudicial to Dorfman.

MR. BERKE: It's prejudicial to my client.

MR. SILETS: One defendant has taken the Fifth Amendment.

MR. BERKE: The Court has already sustained it.

MR. NEAL: We are going to put--

MR. BERKE: (Interposing) Not going to argue any further.

MR. NEAL: We are going to put on testimony that the Defendant Hoffa did do it.

MR. BROWN: If your Honor has ruled--

MR. NEAL: I didn't understand your ruling, I thought you--

THE COURT: (Interposing) Well, I sustained the objection at the time the question was asked. You asked me to reconsider it. I will reconsider it but--

MR. BERKE: (Interposing) But on this other matter does the Court say we have to deal directly with him for these other statements?

THE COURT: Well, gentlemen, we have taken those matters up so many times.

MR. BERKE: All right.

THE COURT: The Court has indicated--

MR. BERKE: (Interposing) I will.

THE COURT: I believe the record reflects properly the Court's position on that. Let's adjourn court until 1:30.

(Thereupon, at 12:05 o'clock P.M. court was adjourned for the noon recess until 1:30 o'clock P.M.)

End Tk 17
Tk 18 fls

AFTERNOON SESSION

1:30 O'Clock P.M.
February 20, 1964

(Thereupon, pursuant to adjournment for the noon recess, and in the absence of the jury, court was in session.

THE COURT: Yes, Mr. Haggerty.

MR. HAGGERTY: May I address the Court?

THE COURT: Yes, sir, Mr. Haggerty.

MR. HAGGERTY: In reference to the subpoena, is Mr. Hutcheson here?

MR. HUTCHESON: Yes, sir, I am here.

MR. HAGGERTY: I didn't want to speak in his absence. This subpoena which was modified and practically consented to, I would say, and your Honor approved, I have been furnished with and I have taken photostats of a group of checks and some air travel, I think one, and in addition some checks to other people where the subpoena read: "All vouchers, checks, travel orders, expenses, resolutions."

No resolution. There is no vouchers if they have any. All expenses relative to Edward G. Partin is omitted. But I understand from Mr. Marvin Berke, who talked with Mr. Hutcheson, and if I am incorrect, you check me, that Mr. Bennett will be here tomorrow morning. Right?

MR. HUTCHESON: That's correct.

MR. HAGGERTY: And I say to your Honor that makes

it pretty late for our purpose and we may be forced to move if the proof so develops tomorrow for a continuance because we haven't had a compliance with our subpoena.

THE COURT: All right, what do you have to say, Mr. Hutcheson?

MR. HUTCHESON: If your Honor please, I have been in contact with Mr. Bennett and he assures me that the subpoena has been complied with insofar as the records that he has been able to determine are concerned. Now, he is not the usual custodian of the records. The only reason he is is because Mr. Partin is not in Baton Rouge. It is not his usual function of the union to take care of these records. But I can assure the Court that Mr. Bennett has told me that these are all that he is able to place his hands upon.

Now, one further matter, I understand that on yesterday there was some reference made by some counsel for the defense that our office had been giving them the run-around.

THE COURT: I think that matter was straightened up, Mr. Hutcheson.

MR. HUTCHESON: If your Honor please, I want to make a record of it because I resent the inference and I want it to be on this record that our office gave nobody the run-around.

THE COURT: Well, the Court did not understand

that any representation was made in that respect, Mr. Hutcheson. I assure you that.

MR. NEAL: Your Honor, may I address the Court briefly on a related matter?

THE COURT: Yes, Mr. Neal.

MR. NEAL: These subpoenas are falling like dew, your Honor. Now, some of them come within my responsibility as representing the United States Government, and some of them do not. And while they appear to be clear abuses of due process, I suppose it is not my function to bring to the attention of the Court, but the defendants are subpoenaing people, bringing them in here, and then dismissing them when they find out that apparently they don't get the testimony they want from them and I will give the Court an example in point.

The Sheriff of Davidson County, Mr. Leslie Jett, was subpoenaed down here either yesterday or today. He arrived today. He was interviewed. According to what Mr. Jett told me, he told them that if he was called to the stand he would testify that Jack Walker is honest.

MR. SCHIFFER: Objected to, your Honor. That is not a proper disclosure to be made to this Court. I subpoenaed the sheriff. Whether or not I want to use him is up to my own discretion and not Mr. Neal's. He is trying to prejudice this Court now that every function that is a

guarantee of law to a defendant. He has no right to make these statements and I ask your Honor to admonish him for this.

End Tk 18
Tk 19 fls.

MR. NEAL: Then I won't make the statement, I withdraw the statement.

However, I do say this, that he was subpoenaed here today, he has now been dismissed and released from subpoena. Your Honor, there is a recent case in Washington, Washington, D. C., being highly condemnatory of the government for calling witnesses in under subpoena for interview.

The government hasn't done this in this case, but it appears that defense counsel are, and I cite Jett as an example. He could be called to state to the Court what happened.

Now, with the preface to that, here is what they are doing. They have served a forthwith subpoena on a man by the name of Robert Erdahl (spelling) E-r-d-a-h-l, whose name came up somehow coincidentally in this. He is the chief of the Appeals and Research Section of the Criminal Division of the Department of Justice. He was served to appear forthwith and bring with him -- I'd like for your Honor to get the scope of this thing, "All tapes, recordings, memoranda, reports," can your Honor hear me?

THE COURT: Yes.

MR. NEAL: "Inter-office memoranda, in writing or mechanically recorded, and any transcriptions thereof in connection with meetings relating to this cause, but more specifically to James R. Hoffa and/or Edward G. Partin."

Now, your Honor, under that subpoena, if I sat down with Mr. Erdahl and discussed this case and he made a memorandum of our discussion he would have to bring that.

The subpoena duces tecum continues, "And all correspondence, memoranda, or other communications in connection with your activities relating to a meeting or meetings or arrangements being made for Edward G. Partin to get together with the United States Government or representatives thereof and more specifically with reference to meetings in Baton Rouge, Louisiana, and New Orleans, Louisiana, when Edward G. Partin met with officials of the State of Louisiana and federal officials regarding and pertaining to James R. Hoffa."

That is the subpoena. I represent that to be the subpoena as represented to me. The government, of course, moves to quash that subpoena.

Now, we will file a written motion, if the Court desires.

THE COURT: Yes, file a written motion.

MR. HAGGERTY: I would say this, it could all be obviated if Mr. Neal will take the stand and say that Mr. Erdahl had no communications with the following in reference to this matter pertaining to Partin.

THE COURT: Well, gentlemen, we are in this situation, the Court cannot rule on matters that are not really before the Court. I have to act on the basis of

specific objections to specific process.

Now, if there is a motion before the Court I will consider it but with regard to this motion, file a written motion and the Court will then consider it.

In regard to any abuse of process or alleged abuse of process, we can take that up after the trial is over. The Court, of course, will expect all counsel to abide by the proper rules and the proper laws in the matter of issuing process.

MR. HUTCHESON: May I make one more statement?

THE COURT: Yes.

MR. HUTCHESON: It appears somehow in the record that Mr. Bennett has somehow refused or avoided coming up here until tomorrow. That --

THE COURT: (Interposing) No, no, I had nothing to that effect. The Court is not aware of that.

MR. HUTCHESON: Not the Court, but Mr. Haggerty said it, I want to advise the Court that I was not requested nor was my office requested to call Mr. Bennett from Baton Rouge until this morning and I did call him and he is getting on a plane, he is making reservations and will be up here tonight.

THE COURT: All right.

MR. HUTCHESON: I wanted the Court to be advised that I had not participated in any refusal to get Mr. Bennett

here.

THE COURT: Of course, subpoenas in process are not a discovery procedure or it's not a procedure whereby attorneys can sit in one place and call in witnesses from all over the United States to interview them, but those are matters, I assume, that are common knowledge to all attorneys and the Court --

MR. HAGGERTY: (Interposing) I may say that what caused my statement is no reflection on Mr. Hutcheson, if he seems to be unduly thinskinned. What brought it about was the fact that he was out of his office several days this week, I had no one to reach but Mr. Hutcheson and I assigned that job to Mr. Marvin Berke. Now, I place no blame or claim against Mr. Hutcheson for not being in his office, he has things to do, but I would say this, that it has placed us in a position of not being able to proceed tomorrow morning, until tomorrow morning. We don't know and we are at sea and we need this information for witnesses who are going to take the stand.

THE COURT: As I understand Mr. Hutcheson represents that this is the information. If they do not have the information, I guess they can't provide something they do not have.

MR. HAGGERTY: But if you have any additional information, may I inquire of Mr. Hutcheson or Mr. Bennett,

when Mr. Bennett gets in, when Mr. Bennett gets in tonight with any additional information will they give it to us tonight?

MR. HUTCHESON: Of course I will, but Mr. Bennett, of course, is a client and I am only the attorney.

MR. HAGGERTY: Surely.

THE COURT: All right, gentlemen, with regard to the Witness Shobe, the Court will permit the examination of that witness only with respect to any alleged conversation with a Mr. Walker.

The Court will neither permit nor expect counsel to examine the witness on any other subject in his testimony. That subject was referred to in the record on page 6099, the bottom of page 6099, beginning at line 14 and continuing through page 6100, and, as I say, relating to any alleged conversation with the Witness Walker.

End 19
20 fls

MR. SCHIFFER: May I at this time--, has Your Honor concluded your statement? I want to make an offer of proof.

THE COURT: Yes, sir.

MR. SCHIFFER: For the record I want to show for the entire record the proof that will be on this witness.

THE COURT: Your offer of proof was put in yesterday, was it not, when you conducted your voir dire?

MR. SCHIFFER: What was done on voir dire was done at the instance of the government. I didn't ask for the voir dire. The government asked for that. I want to read the record since Your Honor has made this ruling the other points which I think are so material and competent and pertinent that they in and of themselves if taken in due consideration by the jury will acquit my client as a matter of law.

THE COURT: Well, now, Mr. Schiffer, the voir dire was conducted. You stated to the Court last night that you had covered the areas in your voir dire that you would expect to cover with the witness. And you expect to offer. And the Court has ruled upon that and as I have indicated. You may file a written offer of proof upon it if you wish to file such.

MR. SCHIFFER: Your Honor, then may I then say for the record I reserve and I can submit that for the Court's

consideration? That I want to specifically except to certain portions of Your Honor's ruling at this time so that I can save the record.

THE COURT: Yes, sir.

MR. SCHIFFER: May I address the Court upon those specific points, Your Honor?

THE COURT: It will not be necessary to make exceptions. You are automatically given an exception.

MR. SCHIFFER: I want to specifically--

THE COURT: (Interposing) Let's do this, Mr. Schiffer, it will save time if you will just file a written statement or offer of proof on that and the Court will consider it and if the Court feels that there are other areas that you would be entitled to go into, I will permit that. But I do not want to take up the time at this time.

MR. SCHIFFER: Your Honor, I'm not certain in my own mind but what that would actually save the position of the defendant without my making a direct offer of proof on the six points which I should like to put in aside from Mr. Walker.

THE COURT: I suggest you put those in as I say in writing.

MR. SCHIFFER: May Your Honor grant me that right? It is fully reserved and for the Defendant Parks?

THE COURT: Yes, sir, you will have that right.

MR. BERKE: Your Honor, may I briefly respond, if Your Honor please? Just for the record? If Your Honor please, we know we automatically have the exception, but the Court will recall when this question came up, we stated to the Court that we wanted to cross examine this witness on other areas pertinent to the defense of Mr. Hoffa.

THE COURT: Mr. Berke, I asked specifically last night, I stated that we would stay here last night and take up this witness Shobe and allow you to make any other offer of proof you desired to make. And I asked specifically in the record if there was any further offer of proof on this? And no one responded on it. Then you stood up and said something about wanting to cross examine the witness.

MR.BERKE: Yes, Your Honor.

THE COURT: In this area. Well, you are sufficiently-experienced attorney to know that you are not, you would not cross examine a witness which you have offered as an affidavit to a motion made by your client and the witness put on by your co-counsel, Mr. Schiffer.

MR. BERKE: If Your Honor please, we think that we have the legal right to the cross examination and we are stating it for the record.

THE COURT: All right, then submit your proposal in that respect in writing.

MR. SCHIFFER: Your Honor, do I understand from

your ruling just made concerning Mr. Shobe, limitation on line 14, Page 6099 and 6100 that I'm not limited to prior questions of what his position is and who he worked for to establish the connection with Walker?

THE COURT: That matter has been covered before the jury was excluded. The only further area that I would permit any examination of this witness on the basis of the matters put into the record is with reference to the alleged conversation with the witness Walker. Conversation in that respect.

MR. SCHIFFER: Your Honor, just immediately preliminary to his talking, his conversations or his testimony about Walker, I will be permitted to find out what his relationship has been with Mr. Walter Sheridan? What that matter was?

THE COURT: That matter has been covered. That matter has already been covered in the record.

MR. SCHIFFER: I haven't found it covered in the record, Your Honor.

MR. NEAL: It sure is.

THE COURT: Well, submit any further offers or objections in that respect in writing.

MR. SCHIFFER: Your Honor, I was just looking to conform with Your Honor's ruling. I wanted to refer to the record to make certain that it was covered. May I have a

moment, Your Honor?

THE COURT: Well, can we not proceed with the witness that was on the stand? Let's proceed with the witness that was on the stand at this time, then we will take that matter up. Have the witness return and the jury return.

MR. NEAL: Your Honor, I take the Court's instructions to Mr. Schiffer to be succinct and clear with respect to conversations he allegedly had with Mr. Walker.

MR. BROWN: Mr. Schiffer has gone to get the transcript.

THE COURT: The record speaks for itself as to what the Court said. Just a moment before the jury comes in.

(Thereupon, the witness Tassey was brought into the courtroom.)

THE COURT: It is in connection with the Shobe matter, it is the opinion of the Court that the other areas that he covered in his examination are wholly incompetent and irrelevant. This witness testified that he came to Nashville in July 1963. Now, some six months after the trial in Nashville was entirely completed. It is the opinion of the Court as I say, that the rest of this testimony is wholly improper and irrelevant.

MR. SILETS: Your Honor, as long as the jury is still out, may I just respond to that remark for a moment?

THE COURT: You may file a written response to it, sir. Have the jury return.

(Thereupon, the jury of 12 and 4 alternates were brought into the courtroom and in their presence the following proceedings were had to-wit:)

MR. BROWN: The government may cross examine this witness.

THE COURT: Do I understand the direct examination has been completed?

MR. BROWN: Yes, sir.

MR. HOOKER: For all?

THE COURT: Yes.

JAMES L. TASSEY,

a witness called at the instance of the defendant Ewing King, thereupon, was examined further as follows:

CROSS EXAMINATION

BY MR. HOOKER:

Q Mr. Tassey, you know Mr. Paschal the highway patrolman up there, don't you?

A Yes, sir.

Q Do they call him James Morris?

A Yes, sir.

Q James Morris Paschal?

A Yes, sir.

Q Do you think you know him well?

A Yes, sir.
Q Friend of yours a long time, I guess.
A Yes, sir, I have known him since he was a kid.
Q Since he was a kid?
A Yes, sir.
Q And you know a number of people in the community there that know him?
A I didn't understand you?
Q Do you know a lot of people in the community there that know him?
A Yes, sir.
Q Is he not well-known in the community of Woodbury?
A He is well-known.
Q Do you think you know his general reputation and character?
A Yes, sir.
Q Good or bad?

MR. BERKE: Just a moment, I object.

MR. BROWN: Your Honor, I object. It is highly improper.

THE COURT: Sustain the objection.

MR. BROWN: Mr. Hocker knew it when he asked it. I ask the Court to admonish Mr. Hooker. Are you through testifying, Mr. Hooker?

THE COURT: Anything further of Mr. Tassey?

MR. BROWN: Are you through, Mr. Hooker?

MR. HOOKER: Yes, I'm through.

MR. BROWN: He may be excused.

2/fol. THE COURT: All right, you may be excused, sir.

(Witness excused.)

MR. DALE: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. BAY: I do.

MR. DALE: Have a seat.

WILLIAM E. BAY,

a witness called at the instance of the Defendant King, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BROWN:

Q Would you state your name, please, sir?

A Beg your pardon?

Q State your name.

A William E. Bay.

Q Speak up loud enough, Mr. Bay, for the Court and the attorneys here to hear you. Where do you live?

A Nashville.

Q Where do you work?

A Super Service Motor Freight.

THE COURT: I am sorry, sir, I didn't get your name.

THE WITNESS: William E. Bay.

BY MR. BROWN:

Q Is that (spelling) B-a-y?

A (Spelling) B-a-y.

Q How long have you lived in Nashville?

A Since 1924.

Q Do you know Ewing King?

A Yes, I do.

Q How long have you known Ewing?

A About 20 years.

Q In what capacity?

A Well, as a driver, as an agent and as being president of our local union.

Q During that 20 years have you had occasion to talk to Mr. King in regard to securing employment for anyone or promotions for anyone?

A Many times, yes.

Q And who specifically and what particular agency or government?

A Well, I asked him to help me get my son on the city police force over in Nashville.

MR. HOOKER: We object to that.

THE COURT: Sustained.

BY MR. BROWN:

Q Have you asked him to secure other--

MR. HOOKER: (Interposing) We object to that.

THE COURT: Sustained.

MR. BROWN: No further questions of this witness.

THE COURT: State your last question, Mr. Brown.

MR. BROWN: I asked him, your Honor, if he had asked Ewing King during the 20 years he had known him to secure employment for anyone and, if so, who.

MR. HOOKER: We object to it.

THE COURT: Well.

MR. BROWN: I'd like to know the basis for the objection.

MR. HOOKER: Just on who he asked.

THE COURT: Can you not address any question that would be relevant to something in this case? I will allow you to address any question that would be relevant to anyone in the case.

MR. HOOKER: No, we didn't object to that.

MR. BROWN: No, your Honor, it goes to the question that Mr. King, this has been a common practice.

THE COURT: Well, it goes, if it goes just to that I think I should sustain the objection.

MR. BROWN: We note an exception and have no further questions.

MR. HOOKER: No questions.

(Witness excused.)

MR. BROWN: Your Honor, at this time, on last evening we entered into a stipulation, the government and myself, as to testimony of Mr. Ben West, that Mr. Ben West

would give.

Did you get it from him, Mr. Hooker?

MR. HOOKER: I got it, if your Honor please, and what I stated was that we would stipulate if Mr. Mayor Ben West was here that he would testify to this but we would object to its admissibility and suggest that your Honor just read it.

THE COURT: All right. May I see it?

MR. BROWN: Of course, I might say that I didn't have any conversation with Mr. Hooker last night when I talked to Mr. West he had him in tow leaving town, I reckon.

MR. HOOKER: He sent that thing in written out, it appeared to be signed by you.

MR. BROWN: That's right.

MR. HOOKER: I told him also, also told--

THE COURT: (Interposing) Well, this may be filed as an exhibit. I would sustain the objection to its relevancy or materiality.

MR. SAULPAW: 195, your Honor.

MR. BROWN: Note an exception to your Honor's ruling.

(The statement referred to above was marked Exhibit No. 195 for identification only.)

MR. DALE: Raise your right hand. Do you solemnly swear that the evidence you will give in this case

shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. BOND: I do.

MR. DALE: Have a seat.

HERSCHEL BOND,

a witness called at the instance of the Defendant King, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BROWN:

Q State your name.

A Herschel Bond.

THE COURT: Just a moment. The last statement, would that be made as an exhibit?

MR. BROWN: Yes, your Honor, we ask that it be made an exhibit since we are not allowed to read it.

MR. SAULPAW: 195.

THE COURT: Exhibit what?

MR. SAULPAW: 195.

BY MR. BROWN:

Q Where do you live, Mr. Bond?

THE COURT: Excuse me, was Mr. Bond sworn?

MR. BROWN: Yes, your Honor.

A I live at 2600 Brittany Court, Nashville, Tennessee.

Q Where are you employed?

A I am unemployed at the present time.

Q During 1962, precisely the months of October, November and December, where were you employed?

A I was employed with Teamsters Local 237, Nashville.

Q And in that capacity did you work with Ewing King?

A Yes, sir.

Q Mr. Bond, during those specific months did you have occasion to be with Mr. King on few or many times during each day?

A Well, I was with Mr. King on numerous occasions--well, I would say practically every meeting that we attended.

Q On these occasions will you state to the Court and jury, if you know of your own knowledge, whether Mr. King was under surveillance?

A Well, I will say it this way, sir, that on several occasions, just about every time we would have some type of a craft meeting or a business meeting at the union hall or at different truck terminals when we would come out from after the meeting it would be a car with sometimes one to two people in it that would follow us.

On some occasions I stayed at the office and then come out just right after Mr. King would come out and it would be a car that would follow Mr. King off and I would follow that car.

Q You do know this was during this period of October,

November and December of 1962?

A That is right, sir.

MR. BROWN: You can ask him.

CROSS EXAMINATION

BY MR. NEAL:

Q Mr. Bond, you don't know the people in these cars that you saw, you have no personal knowledge, I assume?

A No.

Q You don't know to whom the cars belonged?

A No, they were just unmarked automobiles and--

Q (Interposing) Ordinary automobiles you see on the street every day?

A That's right.

Q Do you know whether or not you started seeing cars after Mr. King made some statements about getting to a juror?

A At this particular time, the best I remember, was on one occasion that Mr. King and myself had came out of a--

MR. HAGGERTY: (Interposing) Just a moment, may it please the Court. I object to Mr. Neal's question, the form of his question, and ask the jury be instructed.

THE COURT: Sustain the objection to the form of the question.

BY MR. NEAL:

Q Very well. When did you start seeing these cars, these ordinary street cars following you around?

A Well, as I started to say, at one occasion is I remember a specific Mr. King and I was holding a job steward council meeting. We came out of the meeting and was going to eat and I don't know, I was driving the car and something was said about that car had just pulled off behind us and we discussed who the people were.

Q Well, I don't want--you understand your discussion may not be competent, do you understand my question?

A Yes.

Q Could you fix the time you say these ordinary cars, ordinary street cars were following you, you thought?

A Well, it was in the nighttime.

Q I mean the time of the year, was it in November?

A Oh, I would say around October, November, somewhere in that vicinity.

Q Somewhere around October and November?

A That's right.

Q You can't be any more specific than that?

A No, I couldn't.

MR. NEAL: All right.

REDIRECT EXAMINATION

BY MR. BROWN:

Q Would you say it was during those months?

A I would say it was during those months.

Q And was it done with any regularity?

A Sir?

Q Was this a regular thing?

A It had become regular, I'll put it that way.

Q Now, Mr. Bond, did you ever have an occasion to see any of these men that you had seen in cars following you or Mr. King at any other place in Nashville there?

MR. NEAL: Just a moment. Is this proper redirect, your Honor?

MR. BROWN: You went into it about when this was or if he knew these people or if he had ever seen them before.

THE COURT: I understood him to say he didn't know them.

MR. BROWN: He didn't know, that's what I asked him. I understood Mr. Neal to say if he had ever seen these people or knew these people before.

Q Have you ever seen any of these people anywhere else in Nashville?

A We'll put it this way, I have seen some people that favored them.

Q Where?

A In the courthouse in Nashville.

Q You mean a Federal Courthouse?

A Federal Courthouse.

RECROSS EXAMINATION

BY MR. NEAL:

Q There were a lot of Teamsters attending the trial of Jimmy Hoffa to your knowledge in Nashville, wasn't there?

A That's right.

Q In the courthouse?

A In the courthouse.

Q In the Federal Courthouse at Nashville?

A In the Federal Courthouse.

Q Do you know there was a split in your local union there about that time, was there not?

MR. SILETS: Objection, your Honor.

MR. HAGGERTY: I object to that, may it please the Court.

THE COURT: Sustained. All right. May this witness be excused?

MR. BROWN: Yes. May we ask him one further question?

REDIRECT EXAMINATION

BY MR. BROWN:

Q These people that you are talking about that you saw at the courthouse, were they Teamsters or in any way to your knowledge connected with the Teamsters Union?

A To my knowledge, no, sir.

MR. BROWN: Nothing further, if it please the

Court.

THE COURT: All right. You may be excused.

MR. BROWN: That is our proof.

THE COURT: All right.

(Witness excused.)

MR. BRANSTETTER: I'd like to call Mr. Grimsley, if your Honor please.

MR. NEAL: Your Honor, may I call that last witness back for one question, some information was just handed me.

THE COURT: All right. Mr. Bond.

MR. HOOKER: Just a moment.

THE COURT: Have Mr. Grimsley wait just a moment.

End Tk 21
Tk 22 fls.

MR. NEAL: Mr. Bond, I am sorry to have you called back.

THE COURT: Excuse me just a moment. You may proceed.

BY MR. NEAL:

Q Mr. Bond, as I say, I am sorry to have you called back. I have one or two other questions, however. When did you come to Chattanooga?

A When did I come to Chattanooga?

Q Yes, sir.

A I come yesterday morning.

Q Any other time?

A Yes, sir.

Q When?

A Oh, I believe it was the first part of last week or week before last.

Q How long did you stay?

A One day.

Q Were you in court?

A Yes, sir.

Q In this courtroom?

A Yes, sir.

Q Listening to the testimony?

A Sir?

Q Listening to the testimony?

A Yes, sir.

Q Any other time?

A Sir?

Q Any other time?

A One other time. Week before last and week before that.

Q In this courtroom?

A That's right.

Q Listening to the testimony?

A Yes, sir.

Q Three times, three different trips you have been in this courtroom listening to testimony?

A I believe the best I remember two different trips other than today and yesterday but I wasn't in here yesterday.

Q I see, but other than this trip you have had two trips in here, been in the courtroom listening to testimony?

A That's right.

Q Didn't counsel for Mr. King instruct you that witnesses were under the rule?

MR. BROWN: I object to that, your Honor. I did not know that. His name was given to me as a witness by my client. And certainly I didn't realize I am sure that he heard any testimony or knew anything about that. I can clear that up for Mr. Neal right now. That I issued a subpoena for

this man.

MR. NEAL: I am entitled to inquire, I am not impugning any motives.

MR. BROWN: If it should reflect on anybody, I am the one he should inquire about because I'm not his counsel.

THE COURT: All right. State a question.

BY MR. NEAL:

Q Mr. Bond, did anyone instruct you that witnesses were not to be in the courtroom during the testimony?

A The only time was yesterday morning.

Q Prior to that you had not heard that?

A I haven't, no, sir.

Q Pardon me?

A I haven't, no, sir.

Q Defendant King didn't tell you that?

A No.

MR. NEAL: I see. Your Honor -- we think we might have a motion, a proper motion to strike his testimony but we're not going to make it.

THE COURT: All right, you may be excused, sir.

(Witness excused.)

THE CLERK: Stand and --

MR. SCHIFFER: (Interposing) Your Honor, I understand Mr. French is back in the courtroom. I had asked for him to be excluded and I trust he will be excluded.

THE COURT: Is that in connection with the Witness Shobe's testimony?

MR. SCHIFFER: Yes, sir.

THE COURT: He will be excluded at that time.

MR. HOOKER: Who is this?

MR. SCHIFFER: It will reflect upon possibly prior testimony before Mr. Shobe is recalled.

THE COURT: All right.

MR. SILETS: Mr. McKeon was also in the courtroom.

THE COURT: Are they under subpoena? Are the witnesses under subpoena?

MR. SCHIFFER: They are not under subpoena. They are government officials and I thought they would certainly be willing to testify.

THE COURT: All right.

THE CLERK: Raise your right hand, please. Do you solemnly swear the evidence you will give in this case shall be the truth, whole truth, nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Have a seat.

MR. SILETS: Your Honor, before we proceed, Mr. McKeon is still in the courtroom and I gather Mr. Schiffer yesterday requested he and Mr. French be excused.

MR. SCHIFFER: That's right.

THE COURT: All right, well, unless there is some reason -- yes, sir, you may proceed.

FRANK GRIMSLEY,

a witness called at the instance of the Defendant Campbell, having first been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BRANSTETTER:

Q Will you state your full name, please?

A Frank Grimsley.

Q What is your occupation?

A I'm an attorney with the Department of Justice, Criminal Division.

Q Where is your office?

A Atlanta.

Q How long have you been an employee of the United States Government?

A Almost three year.

Q What are your duties in your employment?

A As an attorney, I'm assigned to the Organized Crime and Racketeering Section. I travel around the country and participate in grand jury investigations of various activities of the underworld.

Q Were you acquainted with a Mr. William Daniels, Assistant District Attorney of East Baton Rouge, Louisiana?

A Yes, I am.

Q How long have you known Mr. Daniels?

A Since about '62.

Q About what time in '62?

A Say May of '62 roughly.

Q Are you acquainted with Edward G. Partin?

A Yes.

Q How did you meet Mr. Edward G. Partin?

A I had a phone call from Mr. Peter Duffey, an Assistant U. S. Attorney from New Orleans who stated to me that he had received a call from Sergeant Pitcher or Sergeant Pitcher's office, I'm not certain at this time.

Q Did you ever meet with Mr. Partin and Mr. Daniels in the office of Sergeant Pitcher in East Baton Rouge?

A Yes.

Q When did this meeting occur?

A I'd say late September or early October of 1962.

Q Who were the parties present at this meeting besides Mr. Partin and Mr. Daniels?

A Mr. Pitcher, Mr. Duffey, and, of course, myself.

Q What was discussed at this meeting?

MR. HOOKER: May it please your Honor, we think there should be some limitation on this.

MR. BRANSTETTER: Withdraw it. Restate the question.

THE COURT: Sustain the objection.

BY MR. BRANSTETTER:

Q What was discussed in this meeting with reference to any of the defendants in this particular proceeding?

A As to this particular proceedings nothing was discussed.

Q Was the name of any of the defendants in this proceeding mentioned in this particular meeting?

A Yes, sir.

Q Were these names mentioned by Mr. Partin first?

A I would think so.

Q Was this the first time that you had ever seen Mr. Partin?

A That's right. First time.

Q Had you heard of him previously?

A Yes.

Q Had you investigated any of his activities previously?

A I had not myself. The FBI and the grand jury had, yes.

Q And you -- you did have some familiarity with the investigations insofar as Mr. Partin were concerned that had gone on in Baton Rouge prior to this meeting?

A I had heard of certain allegations.

Q You had heard of those certain things in connection

with your usual duties as an attorney for the Justice Department?

A I would say it came to me through normal channels.

Q Were you present at any time that there were telephone conversations between Mr. Partin and any of the defendants in this particular case?

A No, sir.

Q Were you present during any --, did you observe any telephonic communications or recording devices on a telephone with any of these defendants?

A No, sir.

Q Did you see any tapes or tape recordings of any telephonic conversations between Mr. Partin and any of these defendants?

A Did I receive any?

Q Did you see any?

A Would you restate the question? I misunderstood you.

Q Did you physically see or observe at any time any recordings of telephonic conversations between any defendant in this proceeding and the said Edward G. Partin?

A Yes, sir, I did.

Q When was the first time that you saw this physical recording or whatever it may be?

End 22
22a fls

A I would say probably two or three months after the telephone conversation took place.

Q When did the telephone conversation take place?

A As I understand it, in October of 1962. I would have seen it around November or December.

Q Where were you when you saw this?

A Probably in Mr. Pitcher's office.

Q How many times did you meet with Mr. Partin in Mr. Pitcher's office? With Mr. Pitcher and/or other people present?

A At least two times. Possibly three.

Q Could you tell us the month in which these three meetings occurred?

A These would have all taken place in late September or early October.

Q All three of them?

A Yes.

Q Or two, if there were two, whatever you stated?

A Right.

Q Now in each of these meetings were the same people present?

A I'm not certain as to Mr. Duffey.

Q And Mr. Duffey was an Assistant United States Attorney there, I believe you said?

A That's right.

Q Now, how many separate transcriptions or recordings did you see or have in your possession of telephonic conversations between Partin and any of the defendants?

A I had two.

Q Were those two made on October 8 and October 18?

A That sounds about right.

Q Are these the only two transcriptions of telephonic conversations that you know took place between Partin and any of the defendants?

A That is all I know of.

Q In your official capacity have you been told that those are the only two recordings that were of conversations between any of these defendants and Edward G. Partin?

MR. NEAL: Your Honor, we object to that.

THE COURT: Sustain the objection.

MR. NEAL: And as to the competency.

MR. BRANSTETTER: I believe Mr. Neal is right. I believe that is an objectionable question.

THE COURT: This is the first time that I have been able to rule without displeasing someone.

MR. BRANSTETTER: We might hope that would be more frequent.

BY MR. BRANSTETTER:

Q Were you made aware or do you have knowledge as to whether or not there are recordings of telephonic conversa-

tions between Mr. Partin and any of these defendants other than the two you mentioned?

MR. NEAL: Your Honor, I don't understand this procedure. Is this a discovery procedure or what is the relevancy of this matter?

MR. BRANSTETTER: No, it is not.

MR. NEAL: What is the relevancy as far as we are concerned with this lawsuit?

MR. BRANSTETTER: Could I state the relevancy we expect to show?

THE COURT: Well --

MR. BRANSTETTER: (Interposing) Mr. Partin testified as to certain --

THE COURT: (Interposing) Without arguing the matter, you are asking about any matter between Mr. Partin and any of the defendants?

MR. BRANSTETTER: Yes, with reference to Mr. Partin's testimony.

THE COURT: All right.

BY MR. BRANSTETTER:

Q Were you made aware or do you know of the existence of any telephonic recordation of telephonic conversations other than the two that you mentioned between Mr. Partin and any of the defendants in this particular case?

A No, sir, I don't.

Q Are you familiar with any recordings made by room bugging as that term is used, or any other method of conversations between first, Mr. Partin and any of the defendants in this particular case?

MR. NEAL: Your Honor, this is just a fishing expedition. It is not proper. We object to it.

THE COURT: Sustain the objection.

MR. BRANSTETTER: Of course, I will abide the ruling of the Court. Mr. Partin made answer to his certain questions --

THE COURT: (Interposing) If you want to discuss these matters, we will just ask the jury to step out.

MR. BRANSTETTER: I will come back to it and then we may do that, may it please the Court.

BY MR. BRANSTETTER:

Q Were any of the telephonic taped records turned over to you?

A Yes. Two. The two I mentioned earlier.

Q I beg your pardon?

A The two I mentioned earlier.

Q Are they now in your possession?

A No.

Q In whose possession are they, if you know?

A I don't know.

Q To whom did you deliver them?

THE COURT: Well, now, if it will save any time, I assume they are right here in the Court's possession.

MR. NEAL: In the Court's possession. The government turned them over to the Court and I think Mr. Branstetter is aware of that.

End 22a
23 fls

MR. BRANSTETTER: Now, may it please the Court, we have not seen them. I don't know the Court has them as a matter of having seen them, observe or heard them or read them.

THE COURT: I am so advising.

MR. SCHIFFER: Well, Your Honor, may we have the exhibit number of those records?

MR. BRANSTETTER: I'd like the exhibit number.

THE COURT: They have not been filed as exhibits. Proceed with your examination of this witness.

MR. SCHIFFER: I didn't hear Your Honor's ruling.

THE COURT: Proceed with the examination of this witness.

MR. SCHIFFER: Your Honor, may I ask for a ruling, in other words?

THE COURT: Just a moment, Mr. Schiffer. Ladies and gentlemen, step out just a moment.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

MR. SCHIFFER: In reference to--

THE COURT: (Interposing) Just a moment, Mr. Schiffer.

THE MARSHAL: Let's have quiet in the courtroom.

THE COURT: Now, then, gentlemen, the Court ruled

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MR. SCHIFFER: In reference to--

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THE COURT: Now, then, gentlemen, the Court ruled

the other day that it would give you an opportunity to go into these matters prior to the submission of any case to the jury. The only conclusion that the Court can draw at this time is that you are rather deliberately seeking to evade the order of the Court in that respect and try to go into these matters at this time in the presence of the jury.

Isn't this exactly what the Court ruled upon the other day, Mr. Branstetter?

MR. BRANSTETTER: No, may it please the Court.

THE COURT: That is what the Court ruled just the other day that the Court would permit you before this case was argued to go into the matter of any recorded telephone conversations. Didn't I instruct you that the other day?

MR. BRANSTETTER: May it please--

THE COURT: (Interposing) Just answer my question. Didn't I so state to you the other day?

MR. BRANSTETTER: You stated on a motion to suppress evidence that we would be permitted to go into it at a later date.

THE COURT: Well,isn't that exactly what you are trying to do now?

MR. BRANSTETTER: I am seeking to impeach Partin and show that he lied from this witness stand when he said he knew nothing about telephonic recordation and that is

the sole purpose of going into this.

THE COURT: All right. If that is the sole purpose.

MR. BRANSTETTER: I think we have a perfect right.

MR. SCHIFFER: I have a second purpose, if I may address myself, that second purpose becomes one of prime and vital importance to the Defendant Parks in this sense, what I am trying to determine here is did it happen that the prosecution turned over to the Court certain records which are not marked in evidence or for identification and hid them in that respect from the defense, because if that occurred, Your Honor--

THE COURT: (Interposing) There is nothing hidden from the defense. The Court is aware that the records are here, they will be available to the defendants at the proper time. They were filed for the examination of the Court along with the response of the government and the two tapes are right here.

MR. SCHIFFER: Your Honor, may I point this out to the Court as a legal proposition where the Defendant Parks is concerned, this is where I am at sea with the explanations I have heard, it's simply this, that if the prosecutor, if it be a fact that the prosecution has taken recordings or other matter, put them into a sealed envelope and given them to the Court and it has not been marked into evidence at any stage of this proceeding.

THE COURT: All right. If you desire we will mark them in the record at this time.

MR. SCHIFFER: But it has not been up to now, Your Honor. Then I say the prosecution succeeded in making Your Honor an assistant prosecutor in this case and is using this court in an attempt, without knowledge of the defendants, to make this court an adjunct of the prosecutor without informing the defendants of that.

Your Honor, if that is not a complete violation of the constitutional rights of the defendant then where will we find a reported case showing something worse? I maintain on behalf of the Defendant Parks, and I say this respectfully for the integrity of this court, and it is the integrity of this court I believe in when I say to Your Honor--

THE COURT: (Interposing) Mr. Schiffer, let me just tell you the other day the government filed with the court a memoranda and attached to that memoranda were two envelopes which were delivered to the Court. They have been with the court since that time. No one has made any request for them or about them. They are nothing in the world but IBM dictaphone tapes. The Court has not--, I do not know what is on the tapes--, I have never examined the tapes, they were delivered to the Court in that manner.

MR. SCHIFFER: Well, I say to Your Honor if it was not marked in evidence that these are actual recordings

when Your Honor knew all along for weeks we have been asking about recordings, the Court never went out of its way to say to the defendants, "Gentlemen, the prosecution has given me two sealed envelopes which they, the government, represents contains recordings." That means then for at least three weeks here we have been--

THE COURT: (Interposing) No, sir, it hasn't been for three weeks. These were delivered to the Court with a motion filed by the government within the last week, I am certain.

MR. SCHIFFER: Well, then, Your Honor, to the extent of one week that we have been preparing to meet issues in this court on behalf of Mr. Parks and the other defendants, we thought we had a right to anything which we thought was illegal on the part of the government that the Court would see to it that they could not get away from that kind of an attempt here and for the first time today it is now disclosed that the prosecution used the Court to deprive the defendant of vital information as a matter of law.

Now, then how can the Court--, I beg of Your Honor--, how can the Court be used as an adjunct to the prosecutor to hide evidence and no where in the record disclose that these are recordings?

THE COURT: Mr. Schiffer, are you acusing the Court of hiding evidence?

MR. SCHIFFER: I am saying they have used--

THE COURT: (Interposing) Are you accusing the Court of hiding--

MR. SCHIFFER: (Interposing) No, I say the prosecution used the Court for that purpose the way they did it with you, Judge, they didn't make a full and clean disclosure to you. They hid the information from you and they hid it from us. We have been talking about recordations here, Your Honor.

THE COURT: Well, everything that--

MR. SCHIFFER: (Interposing) Since we started.

THE COURT: Everything that has been made available to the Court will certainly be made available in the record.

MR. SCHIFFER: Well, today for the first time we know that they actually did deliver something to the Court in a sealed envelope that they used the Court and made some kind of statement when they introduced it because nowhere in the record is there an identification number as an exhibit or anything in evidence.

We have been asking for records now, for this kind of record--, from the first week the trial began and up to this time we have never been given any.

Now for the first time we find out they went and gave something to the Court which we did not know of at the

time and thereby succeeded in using the function of this court to hide their own illegal activities.

All I am saying to you is I believe that it is such a violation of due process and the rights of a defendant in a criminal case, and it goes so deep and offends the decency contained in the constitution of the United States that Your Honor should hold them in contempt of court for permitting the court to be used for that purpose.

It isn't as though this is new to Your Honor. Your Honor has known that we have asked about the recordings all this time and here they hide something in your possession which you didn't realize what it was as the very thing we have been claiming the government has all of the time.

THE COURT: Well now--

MR. SCHIFFER: (Interposing) So they hide it with you so they didn't have to answer our subpoenaes.

THE COURT: All right.

MR. SCHIFFER: That is how they avoided obeying the law. I say that so far as the Defendant Parks is concerned I move for a withdrawal of a juror at this time and I move for a mistrial and a severance because Parks can no longer be, even on any plane, be argued that he was given a fair trial even by the prosecution and relying upon United States versus Berger I say to Your Honor, I say this with complete felicity to you and with my own integrity, and I

don't put my own integrity second to anybody alive, and I say to Your Honor that at the very minimum Mr. Parks is entitled to that relief.

This is chicanery, not law.

THE COURT: All right.

MR. NEAL: May I make one statement on this?

THE COURT: Yes.

End 23

23A fol

MR. NEAL: The tapes, as well as the transcription, that is the actual tapes as well as a written transcription, has been turned over to the Court and we did it pursuant to their request contained at Page 5129, this is beginning at 5128 and 5129, Mr. Silets and Mr. Haggerty asked that the tapes be turned over.

"I ask that they produce those forthwith." That's at Page 5129.

The Court says, "All right. What does the government have to say in response?" That is the Court.

I say, "Your Honor, under what authority are they asking us to produce those, your Honor? What authority do they have to call on us for anything like that?"

Mr. Silets replied, "Section 3500."

I say, "Cite the rule."

Mr. Silets says, "Section 3500 of Title 18."

Now, your Honor, we declined to turn them over to the defendant pursuant to Section 3500 because we think rightfully and correctly they are not Jencks statements, so-called Jencks statements under Section 3500.

Therefore, your Honor, at your Honor's direction we turned those over to the Court pursuant to the direction of the law.

MR. BERKE: You still reading from the record?

MR. NEAL: I am reading from exactly what happened.

MR. SILETS: Does that word occur, Mr. Neal, at 5129?

MR. NEAL: We turned them over to the Court pursuant to the requirement of the Jencks Act, Jencks statements, that if there is something that is possibly a Jencks statement turned over to the Court for the Court's perusal.

Now, the Court has both the tapes and the written transcriptions. They are clearly not 3500 material.

MR. SILETS: May I use your transcript, Mr. Neal?

MR. NEAL: Certainly.

MR. SILETS: All right. Now, as I understand Mr. Neal's remarks, your Honor, it's following this colloquy on Page 5129 that these repeated tapes were reputedly delivered to the Court.

Now, this is to me amazing because only on the 19th of February, which I gather was yesterday, the government filed something called a motion to quash and in it, in response to a subpoena served on Mr. Neal, when the subpoena requested any recordings, tapes and so forth, they said that they turned that over on the 10th of February at Page 4021.

Now, Mr. Neal says--Mr. Neal, I refer you to your own memorandum, he says it happened on Page 5129. Now, if I can point out to the Court what occurred on Page 4021 again we requested the government, made a repeated effort to disclose information and they made a--your Honor marked

something as Exhibit 118 and Mr. Neal said they were turning over "all possible statements of Mr. Partin relating to matter on which he spoke to Mr. Grimsley and Mr. Daniels before the Nashville trial." And that's on Page 4021.

Now, of course, I am at a loss now to understand whether the government's position is they turned it over on the 14th, as Mr. Neal now says at Page 5129 or whether as stated in a memorandum filed with the Court that he turned it over on the 10th at Page 4021.

End Tk 23A
Tk 24 fls.

Tk 24 H1

In this respect whichever is true, 5129, Page 5129 shows no such turnover and Page 4021 shows only a turnover of statements between Partin and Grimsley and Daniels and nothing about a tape recording between Hoffa and Grimsley. Or Hoffa and Partin. Now Your Honor if the Court does in fact have in the court files somewhere these particular tapes my inquiry is what number is the exhibit? And secondly, ask the Court to--, I ask the Court to turn over those tapes to the defense as I had requested back on February the 10th.

THE COURT: Mr. Silets, there were these two envelopes that were attached to the memoranda filed by the government. As I say, I don't recall just when it was filed, but it was filed sometime within the past week. There are two IBM recording tapes in there. What they are or what they contain the Court has no knowledge.

The Court has never listened to them. They certainly will be filed as exhibits. If you request that they be filed as exhibits. And marked as exhibits in the case.

MR. SILETS: I not only request they be filed as exhibits and marked, but I also request the contents be turned over to the defense. Now, Your Honor, in order to clear this record so that other courts if they have occasion to examine this record they will specifically know what is in exhibit No. 118 because the government on this motion to

quash the subpoena, turned over, Mr. Neal said that these were transcriptions turned over on February 10th at Pages 4021 and 4028. And that if the Court will look at the transcript, refers to Exhibit No. 118. And now it appears that the government is coming in and saying they were turned over on the 14th and as a third answer the Court says that they were filed with some memorandum.

Now the defense, the record, and all interested parties are at a loss to know when what was turned over. Now I would like the record to be clarified if the Court would advise the defense what is contained in Exhibit No. 118. If that in fact contains transcriptions or tapes or whatever.

THE COURT: If there is any exhibit the Court does not recall the exact exhibit number. There is an exhibit number which purports to have a--, that was submitted in connection with a request for Jencks documents that purports to have some telephone conversations. And at the appropriate time in the proceedings those will certainly be made available to the defendant. Likewise these matters which have been filed with the Court if they are the tapes of any such telephone calls, they likewise will be made available to the defendants.

But we're not going to interrupt the trial of the case and take up this matter but we will take it up as the Court instructed the other day at that time.

MR. SILETS: Your Honor, I'm not trying to subvert the Court's order and I'm not trying to obtain something the Court is now seeking not be turned over to us. I am just at a loss to understand what it was that was turned over on the 10th.

MR. NEAL: Your Honor maybe I can clear this matter up.

THE COURT: All right.

MR. NEAL: Pursuant to our responsibility under the Jencks act this came up two or three times, written transcriptions of the tape were turned over with the other material when the witness Partin took the stand. Were turned over to the Court. Written transcriptions.

Then on Page 5129 when Mr. Silets demanded the tapes, the tapes, we declined to turn them over to the defendant and he demanded them under Section 3500. We declined to turn the tapes over to the defendants because we contend and I think correctly that they are not Jencks statements.

So we turned them over to the Court. Now those sealed documents attached to the government's response and the statements made on Page 5129 are the actual tapes. The tapes.

THE COURT: This will be filed, and the envelope dated October 8, 1962 as the next exhibit in number being a

sealed exhibit.

THE CLERK: Exhibit 196.

(The sealed envelope dated 10-8-62 referred to above was marked for identification as Exhibit No. 196.)

THE COURT: The envelope dated October 18, 1962 as the next exhibit number, Exhibit No. 197.

THE CLERK: Yes, sir, No. 197.

(The sealed envelope dated 10-18-62 referred to above was marked for identification as Exhibit No. 197.)

MR. BERKE: If Your Honor please, we would like to straighten out the record on one or two matters.

THE COURT: Yes.

MR. BERKE: First of all we would like the record to show since memorandums are not part of the record they are briefs to to speak, we would like to show that the memorandum furnished to defense counsel makes no reference to any tapes being delivered to the Court. Now we would like to find out what date that memorandum was submitted to the court. Could the Court favor us with that information?

THE COURT: Yes. Well, does the government remember?

MR. SILETS: Your Honor, the motion, the memorandum in support of the motion to quash the subpoena duces tecum served on Mr. Neal on the 18th was filed on the 19th according to my records.

THE COURT: It would be the Court's best recollection that these were filed about Tuesday of this week. Today is Thursday. Is that correct?

MR. BERKE: Yes, Your Honor.

THE COURT: They were filed about Tuesday of this week. As I say, the Court made no examination of them. And that as a matter of fact--

MR. BERKE: Would the 18th then be the correct date, Your Honor?

THE COURT: I believe that the 18th would be the correct date.

MR. BERKE: All right. We appreciate the Court giving us that information. Now is the Court advising counsel that these tapes or a transcription thereof is not information which we have been entitled to under the Jencks rule?

THE COURT: Yes, sir. Yes,sir. The Court's opinion is that they are not produceable under the Jencks act.

MR. BERKE: To make it absolutely clear and I'm sure I am right about this, these transcriptions, not the tapes themselves, but the transcriptions have previously been filed as a sealed exhibit. Now can we get the number of that sealed exhibit, Your Honor?

THE COURT: Yes, the Court will this evening go

through the sealed exhibits and determine which one that is, yes, sir.

MR. BERKE: In that way we will have the date when it was filed.

MR. SCHIFFER: YourHonor, with reference to--

THE COURT: Yes, sir, Mr. Schiffer.

MR. SCHIFFER: Your Honor, with reference to the question of these recordings--

THE COURT: I might just say this, too, in connection with that, the Court expects and anticipates at this time that those recordings and those tapes will be made available to the defendant at the appropriate time when the Court considers the motion to suppress.

MR. SCHIFFER: Your Honor, I feel so far as the Defendant Parks is concerned that by the surrepititious hiding in this fashion by the prosectuion of vital records which go to the merits of part of the legal defense of this case, that so far as Mr. Parks is concerned at least I'm going to move for a mistrial because of the apparent ex parte proceedings partaken of by the prosecution and using the Court the way they did.

THE COURT: Yes,sir. The prosecution should, the Court wasn't aware that the motion itself did not refer to that fact. If it did not refer to the fact then I say the Court wasn't aware. The Court was under the impression that

the motion or the document referred to the fact that those were being delivered to the Court. If that was not part of the document then certainly that should have been stated in the motion. The Court was under the impression that it was a part.

MR. SCHIFFER: That is why I fear Your Honor was taken advantage of, too, and for that very reason now as I say, we have been deprived of a vital ten days here, possibly two weeks of preparation in the defense of Mr. Parks.

End 24

24Afol.

Tk 24a-DC1 • Grimsley

I know the other defendants are affected the same way in connection with seeing what we deemed vital that was in the possession of the government and time and again your Honor heard Mr. Neal get up and it is on the record that, well, they just didn't have these things and then they take these very things we are talking about, these recordings, and hide them with the Court and the Court doesn't know that it had them. And as a result, your Honor, we move for a mistrial because of this illegal activity on the part of the government. We ask for withdrawal of a juror and severance.

And particularly we also state the fact that there has been an ex parte proceeding in this case unknown even to the Court but yet practiced upon the Court and the defendants by the prosecution by their own statement today and by the record in this case.

End 24a
25 fls

MR. SILETS: May the record show that that motion is for all defendants?

A THE COURT: All right, yes. Allow it to be made on behalf of all defendants and overruled.

MR. NEAL: In view of your Honor's remarks, let me state this, that I did not know that, it did not dawn on me that the government's response did not show that the actual tape had been turned over.

However, as your Honor will remember, some several days ago I advised defense counsel, and I will find this in the record, that we had turned over the transcription of these to the Court pursuant to the requirements of the Jencks Act.

I mentioned this-- may I make a statement without being interrupted -- I mentioned this at that time, your Honor, and I think I said, maybe your Honor has forgotten this, it was at that page that the counsel, defense counsel, were advised that we had turned transcriptions over.

THE COURT: Well, gentlemen, these matters will be gone into fully.

MR. NEAL: We didn't want to hide anything.

THE COURT: At the time the Court indicated it would go into them and in the manner in which the Court has indicated and --

MR. SCHIFFER: (Interposing) Your Honor, at the time --

THE COURT: (Interposing) You will have the opportunity to make appropriate motions.

MR. SCHIFFER: At this time may I have a ruling upon the motions which I have made, your Honor?

THE COURT: Yes, I overruled those motions, Mr. Schiffer. They were made on behalf of all defendants, and I overruled them on behalf of all defendants.

MR. SCHIFFER: Let me for the record take an exception especially on that point.

MR. HAGGERTY: May I call the Court's attention to this matter, in compliance with our motion to produce a subpoena duces tecum the government filed an answer, it was with that answer, as I understand the record to date, that surreptiously and defeatfully the government, in order to be able to set forth the contentions there, deliberately gave up possession of these tape recordings to your Honor.

I say I have never experienced any practice such as this. I have been somewhat suspicious at times but I have never had it proven to me that authorized attorneys in representing the government would deliberately deceive the Court and deceive their opponents in such a manner as has been done in this case and it is merely by accident, they haven't disclosed it as yet, not willingly, they handed to your Honor something which is apparent that your Honor was not familiar with, is something that your Honor hadn't an

opportunity to examine and your Honor rightfully thought that if they gave it to the Court on a reply to our legal process that they would at least inform us of that fact and I will say to your Honor one of the reasons that there are so many motions and there's so many subpoenas is the very conduct and the very practices adopted by the prosecution in this case.

End 25
25a fls

Now, I say further, your Honor, I say further, your Honor, that this is the most flagrant case of deceit that I have ever had any acquaintance with and to believe that it would happen in a court of law.

I charge your Honor with nothing, you are the innocent victim of the deceit practiced by the government but you have caused--it has caused the defense here a complexity of troubles, a complexity of motions.

Instead of playing honest and honorable with their opponents, it seems that by this very act they have proved their dishonor.

MR. SILETS: Your Honor, may I make just one observation to the Court?

THE COURT: Yes.

MR. SILETS: The matter that was filed on the 18th was entitled "Government's Memorandum of Law and Applicability of 18 U. S. C. 3500--the transcription or recordings of telephone conversations between a government witness and a defendant taken with the consent of the witness by state law enforcement officials."

Now, at the time when I read this memorandum I noted in the body thereof a reference to a delivery to the Court of the transcription on February 10, 1964, but in line with the contentions of the defense at this moment, I must point out to the Court that the government cited the page

as 2041 and 2048 when, in fact, on a later occasion they were really 4021 and 4028.

Now, at the time I think I mentioned to the Court I looked at these pages and I couldn't find anything resembling this action.

Now, in light of this, this is further evidence of the government's attempt to suppress, seclude and withdraw from the observation of both the Court and us where these things occurred.

Now, your Honor, on this additional ground I renew my motion for a mistrial.

THE COURT: Overrule that motion.

MR. HAGGERTY: I call to your Honor's attention--

THE COURT: (Interposing) Excuse me just a minute. Let's get one thing at a time. I overruled the motion.

Yes, sir, Mr. Haggerty.

MR. HAGGERTY: I call to your Honor's attention in this series of exchange of pleadings between government and defense counsel this morning, amazed as we were by the government's answer, without knowledge of the chicanery they had practiced, we filed a memoranda in support of our position to produce evidence based on wire taps, eavesdropping and other alleged invasions of privacy.

Now, this was just filed this morning. Mr. Neal

facetiously said, I thought facetiously, said that they were not going to reply to this. Now, I know full well why they wouldn't reply to it because they couldn't reply to it because they had already committed this act and practice of deceit.

Therefore, I refer your Honor to our serious memoranda in support of our motion to suppress evidence which I do not believe under the circumstances your Honor has yet had an opportunity to read or study.

THE COURT: No, sir, I have not had an opportunity. As you know, there has been a series of motions to suppress filed. I have all of those motions still under consideration and I had indicated on the original motion the procedure that the Court thought should be proper and would be the proper way to handle it and at the proper time we would take that up and the defendants certainly would be entitled to have any information that the Court was aware of in that respect.

MR. HAGGERTY: I say to your Honor that the reason there has been such an interchange and there has been so many motions to suppress is because it is caused by the very acts and omissions of the government and I say to your Honor in a matter as serious as this whereas I charged fraud is practiced on the Court and deceit on the opposition, mainly the defense, your Honor shouldn't put this matter off, it should be disposed of now.

MR. NEAL: May it please the Court, I am now

able to understand the perfidy, the calamity that this impeccable Mr. Haggerty engages in.

MR. HAGGERTY: Afraid of the truth?

MR. NEAL: At Page 5158 of the transcript, may it please the Court, dated February 14, 1964, 5158, the following takes place, I say, "May it please the Court, before the jury comes in," I had just remembered with respect to the recordings, "there has been some examination of recordings or some discussion about recordings, may it please the Court," before the jury comes in, I had just remembered with respect to the recordings, those were turned over to the Court, I believe. I had forgotten and perhaps the Court had forgotten."

The Court says, "I haven't forgotten anything."

I say, "Sorry, I had forgotten it. They had been turned over, had been ruled on by the Court. Turned over with all other statements for determination in connection with Jencks statements and we will file a response. I had forgotten that we had turned them over."

Mr. Berke says, "Are you talking about the telephone recordings?"

I say, "Yes, sir."

Mr. Berke says, "If your Honor please, this is the first we had heard of it and we certainly want to challenge that."

And so on and so on.

Mr. Berke says again, "We are challenging Mr. Neal's statement that the recordings have been filed with the Court. I understood the Court to say that you have not seen any telephone recordings."

Now, then, your Honor, on February--

MR. BERKE: (Interposing) Read what the Court said right after that.

MR. NEAL: I will. The Court said, "I stated that everything that has been turned over to the Court has been made available to the defendants that was available in the Court's understanding of the law, everything that was not available has been sealed and is a sealed exhibit in the case."

Now, your Honor, on February the 17th Mr. Haggerty, the impeccable Mr. Haggerty--

THE COURT: (Interposing) Now, gentlemen, let's refrain from any adjectives in describing counsel, let's just refer to counsel by name.

MR. NEAL: I would like that, your Honor, but it's hard to have charges day after day, listen to charges day after day. I am sure your Honor will appreciate that. I will endeavor to do that, your Honor is certainly right.

Mr. Haggerty says, and he is quoting me at Page 5535, "'Mr. Neal: May it please the Court, before the jury

comes in I just remembered with respect to the recordings, those were turned over to the Court.'"

That is Mr. Haggerty quoting me.

Then he stated, without any quotes, "He states recordings were turned over to the Court."

Then he starts quoting again.

THE COURT: Well, gentlemen.

MR. NEAL: Your Honor, this supposed Mr. Haggerty--

THE COURT: (Interposing) Well, gentlemen, I think the record will reflect certainly what the situation is and let's get back to the regular order of the proceedings here. The Court, as I indicated, was under the impression that the documents filed with the Court reflected just what was filed with the Court. Apparently that is not so. If the government didn't reflect that then they should have so reflected it, but the Court cannot see that anyone has been and certainly no one will be denied any of his rights in this respect and at the appropriate time we will go into it fully and the defendants will be furnished by the Court with everything that the Court deems under law that they are entitled to be furnished with and the defendants will have an opportunity to present any matters to the Court that they desire to present.

MR. SILETS: Of course, we take an exception.

MR. BERKE: To check the record--

THE COURT: Beg your pardon?

MR. SILETS: May I take an exception to your Honor's comment that we have been furnished with everything that we are--

THE COURT: (Interposing) I say you will be furnished with everything and the Court is of the opinion that they have been furnished up to this time, yes, with everything under the law that they are entitled and at the appropriate time will be furnished with other matters that they are entitled to.

MR. BERKE: If your Honor please, I'd like the record to show that, only that what Mr. Neal was speaking of took place on February the 14th and could not have possibly meant that he had turned these recordings over which the Court has now stated occurred on the 18th.

End Tk 25
Tk 26 fls.

Now what he is speaking about is the sealed exhibit of which we have no knowledge at all but the tapes and what the exhibit that your Honor is talking about which was turned over day before yesterday that would have been on the 18th, so it is impossible for us to have been misunderstood about that.

THE COURT: All right. Let's proceed.

MR. HAGGERTY: May it please the Court, at this time I have a motion to make.

THE COURT: Yes, sir.

MR. HAGGERTY: At this time I move the Court for a mistrial. We cannot, your Honor, continue with the trial in this atmosphere of fraud created by the government. It is absolutely impossible. The record is made. It is up to your Honor, but I say in good faith and your Honor has to notice, I have made very few motions for a mistrial in this case but I think this is one of such gravity that goes to the very roots of constitutional rights, of a defendant, that I make as seriously at this time a motion for a mistrial because of the fraud and deceit practiced by the government on the defense and on the Court.

THE COURT: All right. Allow that motion to be overruled.

MR. SCHIFFER: May we move for a mistrial on behalf of all defendants?

THE COURT: Yes, as to all defendants and overruled as to all defendants. Now, gentlemen, before we resume the examination of the witness, let's take a 10-minute recess.

MR. SCHIFFER: Your Honor, before you take a recess, may I make one statement to the Court?

THE COURT: One moment, please.

MR. SCHIFFER: Your Honor, by reason of the fact, your Honor, that we as counsel in this case and I in particular have gone through the matter of surveillance and interference and by activities as an attorney in this case for and on behalf of Mr. Parks, countless times that one could not consult during the daytime or the nighttime with a client or with witnesses, that it has led to some incidents in this courtroom wherein your Honor might have felt I was pushing too hard as a lawyer in defending Mr. Parks, I want your Honor to know that now you see physically for the first time on this record the extent to which frauds were constantly practiced upon the defendants and now we find even been practiced on the Court. And I ask your Honor to remember that in all the instances where I got up and at times your Honor I thought was trying to caution me that I was being too strenuous that your Honor should understand that our responsibilities are what they are as lawyers and that the interests of our clients come first and when we feel that the

government or any representative of the government is trying to impose illegally upon the defendants, only their counsel can speak for them.

And I should like your Honor to remember that it has now reached the point in this case where it is no longer Jacques Schiffer whom they surveil and whom they interfere with or Mr. Parks the man I represent, now they have even gone so far as to do it to the Court and because they have done it to the Court I say they have invaded the constitutional operations of this Court and that we are entitled at this time since they have done these things against counsel and defendants, now they have palpably proven and shown to have done it to the Court and we move for a mistrial at this time as the only manner in which the government can be cautioned once and for all in this trial at least that they cannot continue to do these things and the courts will not countenance them.

I assure your Honor I expect the same kind of surveillance, the same kind of illegal activity to continue so long as your Honor permits them to get away with it.

We can no longer before your Honor prove it in any other fashion than what happened here today on the issue of these recordings.

THE COURT: All right.

MR. HAGGERTY: I call to your Honor's attention --

THE COURT: (Interposing) Just a moment, allow that motion to be overruled.

MR. HAGGERTY: May I address the Court?

THE COURT: Yes, sir.

MR. HAGGERTY: I call to your Honor's attention this being such a flagrant violation I think it is entirely in order that your Honor should seriously consider holding the government attorneys, particularly one of them, in contempt.

THE COURT: All right, let's take a 10-minute recess.

(Thereupon, at 2:57 o'clock, p.m., court was in recess.)

End 26
27 fls

THE COURT: All right. You may proceed, Mr. Branstetter.

BY MR. BRANSTETTER:

Q Mr. Grimsley, after October the 22nd, 1962, what was the next time and place that you saw Mr. Partin?

A I can't recall exactly when I saw as pertaining to that date but I know he called me a couple of times in Atlanta during October, possibly November.

Q Yes. After the so-called United States versus Hoffa and Commercial Carriers began trial in Nashville on October the 22nd, following that time when was the next time that you talked to Mr. Partin, if you can recall?

A It would probably have been January or February, that's face to face now.

Q Yes. You do not think that you talked with him in the month--, in November or December of 1962?

A Not face to face, no.

Q You did confer with him by phone in Childersburg, Alabama, on one occasion, did you?

A He might have--, he might have contacted me, I don't know, not me calling him.

Q Did he contact you one time in some place in South Carolina by phone?

A I doubt that, I don't think I have been to South Carolina.

Q Did he contact you in Mississippi by phone?
A No. I have never--, I never had a call from him in Mississippi.
Q Do you recall where he was when the calls were made?
A A lot of times I didn't ask.
Q Did you meet face to face with him on several occasions in January of 1963?
A I would say possibly two.
Q Were they in relation to any of the defendants in this particular case, these meetings?
A Not directly.
Q Not involving the matters that are now involved, as far as you understand it.
A That is right. Well, I'd like to clarify a little bit, we had other matters that we were discussing.
Q Sure.
A The names might have come up, could have come up.
Q Could I have Exhibit 121, please? Mr. Grimsley, I will hand you here what purports to be some checks drawn on the Treasury of the United States and they, I believe, have been filed as Collective Exhibit 121, and ask you to look at them and see if you can identify them and then I will ask you.
A (Witness examined the exhibit referred to above.)
Q Just take the first check, if you will, and we

can probably expedite it in that manner.

A All right.

Q Would you state what the first paper represents?

A It's a check dated September 4, 1963, in the amount of $300.00 payable to A. Frank Grimsley.

Q Are you the A. Frank Grimsley that it is payable to?

A I am the A. Frank, yes.

Q Did you endorse that particular check?

A I did.

Q Would you pass that to the jury, Mr. Marshal?

Now, could I show you this---, where was this particular check drawn on the Treasury of the United States cashed?

A In Atlanta, Georgia.

Q Then what did you do with that $300.00 when you received it?

A That is the September one?

Q Yes.

A I picked up a cashier's check at the bank.

Q About the same time?

A On or about the same time.

Q Under whose direction were you receiving this, did you receive this particular check?

A Mr. Sheridan told me I would be receiving some

checks.

Q Did you sign any receipts, vouchers, or other memoranda showing the reason for the issuance of these checks or the purpose for which they were to be issued?

A No, I just endorsed them.

Q Just endorsed them. Did you know in advance that you were to receive this $300.00 check?

A Yes.

Q How long in advance did you know you were to receive it?

A From about the middle of July of last year.

Q Is this the first check that you received of this type that you cashed and then used the money for other than your own use?

A I think this check here was the second one that came, I think there was one in July. This one is dated September, there must be one in August, too. Here is July.

End 27
Tk 28 fol.

Q What is the next check?
A According to the stack here the next check is October 2, 1963.
Q October 2, 1963?
A That's right.
Q Now, when --, let's take the first check and complete it if we may, when that check was issued you cashed it and obtained a cashier's check, what did you do with the cashier's check?
A I mailed it to Mrs. E. G. Partin.
Q And where did you mail it to? What address? Do you remember?
A 7925 Prescott Road, Baton Rouge.
Q Had you talked to Mrs. E. G. Partin about this particular matter previously that she would be receiving checks?
A No, sir.
Q Did you ever talk to Mrs. E. G. Partin prior to the time you mailed her the first check?
A No, sir.
Q Have you talked to her since then?
A No, sir.
Q Have you ever met Mrs. E. G. Partin?
A No, sir.
Q As far as you know, she did not know you were

going to mail her the checks or what they were for. Is that correct?

A I don't think she knew where they came from because there is no name of the remitter on the cashier's check.

Q Would you see if you can find the cashier's check that was purchased with the check of September 1 if that is the correct date and pass it to the jury?

A That one dated September that I passed over there?

Q I believe it was September 1st.

A In September there were two payments. Excuse me. One fifty each.

Q Would you pull those two out, please, and pass them over? Could I ask, Mr. Grimsley, was there a covering letter or any designation at all sent to Mrs. Partin with these checks?

A Nothing. I just wrapped paper around them to keep the check from showing through the envelope.

Q Put it in an envelope and mailed it?

A Yes.

Q Now, who directed that you handle it in that manner?

A I think I arrived at it, at the plan myself. Mr. Sheridan said that we were to send the money to the lady. And

of course, it was my understanding that she did not know the source of the money. So rather than get a money order, I picked up a cashier's check and made payable to her. Of course, the bank kept the name of the purchaser on their records. That is the reason we had these here.

Q Now, would you examine the rest of those documents all at one time and see if they also represent payments to you and then your obtaining of some sort of a certified check and the mailing?

A These are copies of cashier's checks were all based on money that I received in the amounts of $300. However, I see here there are more checks than monies that were disbursed to her. And, of course --

Q (Interposing) Yes, now, on those checks what disbursement did you make on those?

A On the others?

Q Yes.

A To another source.

Q To another source. Did you send --, did you mail these checks to the other sources, this other firm?

A No. These people I delivered to them in person.

Q Delivered to them in person?

A Yes.

Q How much money was involved in that?

A There must have been close to $1,200.

Q Around $1,200?

A Yes. No, $900.

Q $900?

A Yes.

Q Were those payments made to other women?

A No.

Q Or some man's wife?

A No.

Q Were they paid to other --

End 28
28a fls

MR. HOOKER: We object to that, if Your Honor please. The exhibits that Mr. Grimsley has before him there as I see from here are photostats.

THE WITNESS: These are--

MR. BRANSTETTER: May it please the Court, Mr. Grimsley is testifying.

THE COURT: Let him testify. See what we are talking about.

BY MR. BRANSTETTER:

Q How much--, did you deliver money to Mr. Partin directly?

A Never. No.

Q Excuse me. Go ahead.

A No.

Q Who was this other money paid to?

MR. HOOKER: We object to that.

THE COURT: Well--

MR. HOOKER: (Interposing) Withdraw the objection.

THE COURT: All right.

A I can say this, it was not to anyone connected with this trial.

BY MR. BRANSTETTER:

Q Who was it paid to?

THE COURT: Did it have anything to do with this case?

THE WITNESS: To none of these defendants, Your Honor. It was another man that was more or less away from this town.

THE COURT: Have anything to do with the payment to Mr. Partin or on behalf of Mr. Partin?

THE WITNESS: Nothing in connection with the Partin matter.

THE COURT: Sustain the objection.

BY MR. BRANSTETTER:

Q Did it have anything to do with this case?

A The one at bar? No.

Q Did it have anything to do with the one in 1962 known as U. S. versus Hoffa and Commercial Carriers?

A No.

Q Directly or indirectly?

A No.

Q Growing out of that case or any part of this case?

A It could have grown out of that one.

MR. BRANSTETTER: May it please the Court, we believe we are entitled tc the person to whom it was paid under that.

THE COURT: For the purpose that you are introducing this evidence I sustain the objection.

MR. NEAL: May I see these a moment? I think the witness may be--

MR. BRANSTETTER: May it please the Court, let Mr. Neal--

THE COURT: He may see whatever exhibits we are talking about.

MR. BRANSTETER: May we have the marshal hand them back to counsel?

MR. NEAL: Yes, that is all right. May I inquire just briefly, Your Honor, to straighten up this matter? I think I can do it.

MR. BRANSTETTER: May it please the Court--

MR. NEAL: (Interposing) Two questions, Your Honor.

THE COURT: All right. Two questions.

VOIR DIRE EXAMINATION

BY MR. NEAL:

Q Mr.Grimsley, what was the total--

MR. BRANSTETTER: I want to interpose an objection to this procedure.

THE COURT: Yes, sir.

BY MR. NEAL:

Q What was the total amount paid to Mrs. Partin?

A I believe the check shows $1,200.00.

Q $1,200.00, now, sir, won't you look at these checks and tell me if in fact there is only a total of $1,200.00 in checks here?

MR. BRANSTETTER: May it please the Court--

THE COURT: (Interposing) Let's go back to the usual order of proof.

MR. BRANSTETTER: I don't understand this. There is no voir dire necessary in this sort of thing.

MR. NEAL: May I ask the witness to examine these and see if these are not photostats of the same checks?

THE COURT: All right, you can cross examine at the appropriate time.

MR. NEAL: Very well.

BY MR. BRANSTETTER:

Q Now on the issuance of the checks did you file any sort of accounting procedures with any governmental agency as to the receipt and disbursement of these checks?

A Not as to these ones, no.

Q Did you report the checks on your income tax?

A I haven't filed yet.

THE COURT: What does this have to do with Mr. Partin's testimony, Mr. Branstetter? I understood that you were introducing it for--

MR. BRANSTETTER: (Interposing) That is the basic purpose, Your Honor. Yes, if there is other evidence or other payments that can be determined I assume we would have a right to go into it relating to any manner in this proceeding.

THE COURT: All right.

BY MR. BRANSTETTER:

Q You filed no accounting on these checks?

A No, I haven't.

THE COURT: Did you receive--

MR. BRANSTETTER: (Interposing) We object to that. Sorry--

THE COURT: I thought you were--

MR. BRANSTETTER: (Interposing) No.

BY MR. BRANSTETTER:

Q Did you have any understanding with Mr. Partin as to the amount of monies that would be paid indirectly to him through he or to his wife?

A Mr. Partin met with me in July of 1963 and at that time we felt that he should sort of not be in one place too long at the time in view of the fact that the trial was coming up. In other words, he had been informing to us and we were trying to protect his identity.

Q He had been informer to you?

A That's right.

Q And he began being informer to you on the telephone call of October 8. Is that correct? 1962? Or before?

A That was the basis for it.

Q Yes, and he I believe as a matter of fact you

stated that it was the latter part of September or first part of October that you first met with he and others?

A That is of 1962.

Q 1962?

A Yes.

Q Thank you.

A To go back, excuse me--

Q (Interposing) Excuse me, go ahead.

A To go back, he said inasmuch as he wouldn't be in circulation too much he had only one request and that was for the benefit and care of his children that he would like some money to go to them. That was the only thing he needed. He could take care of himself.

Q Was this back in September and October, 1962 or a little later or what?

A July of 1963. '63.

Q When he became informer was as you stated October 8 on the phone call that you referred to previously.

A Well, I met with him in September, late September or early October so he probably started then. I guess you would say late September was the day of--

Q (Interposing) And you had an understanding with him at that time about his method of operation to a certain extent?

A There was no understanding at that time.

Q But you had an understanding that he was to be the informer that you spoke of?

A Well, he volunteered this information.

Q Then when you started talking money with him, did you know whether or not during this period of time of 1962 and the period of time in 1963 when certain payments were made to his wife, did you know that he was then still drawing his salary with the Teamsters Union in Baton Rouge?

A As to which date? '63 or '62?

Q Let's take '62 first.

A '62?

Q Yes.

A There were no monies paid to him or his wife.

Q In 1963?

A First time was in July of 1963 to his wife.

Q Did you know whether or not he was drawing his salary from his regular source of employment at that time?

A No, I didn't know.

Q Did you talk to him about it?

A He said that if he went out of circulation he would not be on the payroll.

Q When was the first time you talked money with him?

A July, 1962.

Q Had you not talked money with him in September or October, 1962?

End 28A 1 A No, sir.

29 fol. 2

Q Had there been any discussion of money at that particular time?

A No, sir.

Q When did you make the arrangements to start receiving these checks, what month?

A July of '63.

Q July of '63. And were those arrangements made in Atlanta or were they made in Washington?

A In Atlanta.

Q Did you meet with Mr. Partin in Washington, D. C., on any occasions during the middle of 1963?

A I have never seen him in Washington or met with him.

Q Or met with him in Washington?

A Right.

Q Your conferences with him were either in Louisiana or in Georgia?

A Or Alabama.

Q Or Alabama. Childersburg?

A No.

Q Birmingham?

A Birmingham, yes.

Q How many times did you meet with him in Birmingham?

MR. NEAL: Your Honor, is all of this relevant now that we get into this?

MR. BRANSTETTER: I think it is highly relevant.

MR. NEAL: I don't know for what purpose.

THE COURT: Overruled.

MR. NEAL: A meeting in 1963?

MR. BRANSTETTER: I am not talking about 1963 at this point.

MR. NEAL: Oh, you are not?

THE WITNESS: Yes, you were.

BY MR. BRANSTETTER:

Q '62 did you meet in Birmingham?

A No, no, '62 only in Louisiana and Atlanta.

Q Did you meet with him in Chattanooga?

A Yes, I have seen him here.

Q Did you meet with him in Nashville?

A No.

MR. NEAL: Would Mr. Branstetter specify the time here so the witness -- you mean ever?

MR. BRANSTETTER: Yes.

A In Nashville?

Q Did you ever meet with him in Columbia, Tennessee?

A Columbia, yes.

Q In those meetings in Columbia and Chattanooga was it with relation to the case now on trial here?

A When I met with him we were not discussing this case here.

Q Here?

A Right.

Q You were in Columbia?

A Columbia, Tennessee.

Q Yes. Thank you, Mr. Grimsley.

CROSS EXAMINATION

BY MR. SILETS:

Q Mr. Grimsley, who is your immediate supervisor in the Organized Crime unit?

End 29
29a fls

A Mr. Sheridan, Walter Sheridan.

you have done in this situation?

MR. HOOKER: We object to that as immaterial.

THE COURT: Sustained.

MR. SILETS: Your Honor, I think I am entitled to establish that this is a most highly unusual procedure.

THE COURT: Sustain the objection.

MR. HOOKER: We withdraw it.

MR. SILETS: Well, no further questions.

THE MARSHAL: Order in the court.

MR. BERKE: Just a minute.

BY MR. BERKE:

Q Mr. Grimsley, have you been continuing these payments to either Mr. Partin or Mrs. Partin since those checks here?

A No, sir, these were the last ones.

Q All right, sir.

A This is it.

Q Do you know whether she has received any money from the United States Government from any other source?

A No, sir, I don't.

Q Mr. Grimsley, I assume when you had this agreement or this information that he was going to become an informer, you knew, his record was available to you, was it not?

A I knew of certain activities of Mr. Partin or,

rather, I had heard of some.

Q Yes, sir. The Federal Government has complete access to the criminal record or almost complete access to the criminal record of nearly everybody in the United States, do they not?

A That's right.

Q Did you know, sir, that at the time that you were making this deal with Mr. Partin that he was indebted to the United States Government in an amount of $4850 and interest on some taxes?

A What kind of a deal are you speaking of, Mr. Berke?

Q Taxes that were due the United States Government from a service station operation that he had, a truck stop operation that he had in Louisiana.

A You mentioned this deal I was making. What do you mean by this, sir, I don't quite follow you?

Q When you had the deal, or whatever you had wherein he agreed to be an informer or a carrier of messages or a stool pigeon or any other method or description you want to call it, at that time did you know and at the time you were making these payments to him didn't you know that he was indebted to the United States Government in close to $5,000 in taxes which were forgiven him?

A I don't know the amount, I knew he had some tax

difficulties.

Q Yes, sir. Now, you also knew, did you not, Mr. Grimsley, that he did own some real estate?

MR. NEAL: Excuse me just a moment, your Honor. This is obviously cross examination. I don't know--

MR. BERKE: (Interposing) Yes, sir, it is cross examination, your Honor.

THE COURT: Sustain the objection to the cross examination.

MR. BERKE: Does your Honor hold we can't cross examine, if your Honor please, for a defendant? I didn't put him on, if your Honor please.

THE COURT: State the question. Sustain the objection to the leading question.

BY MR. BERKE:

Q Mr. Grimsley, you say you did know he owed some taxes?

A Yes.

Q Do you know how much he owed the United States Government?

A No.

Q Don't you know, as a matter of fact, no effort has been, ever been made to collect those taxes?

MR. NEAL: Your Honor, that is just not true. We object to the question.

MR. BERKE: I will show it's true, if your Honor please.

MR. NEAL: We object to the question.

A I am not in the tax department.

Q But you know that the tax department is also a branch of the United States Government, do you not?

A Oh, yes, sir.

Q That's the same government that you work for?

A We all work for, yes, sir.

Q Now, did Mr. Partin pay you how much money he owed the United States Government?

A No.

Q Did you know approximately how much he owed?

MR. NEAL: Object to being repetitious.

A No.

THE COURT: Sustained.

BY MR. BERKE:

Q Now, were any payments made to Mr. Daniels? You know who Mr. Daniels is?

A None.

Q Didn't he come up to Atlanta?

A He paid that out of his own pocket.

Q You say that he was not reimbursed any expenses or anything?

A In any shape or form.

Q Now, when you first found out that he was going to be an informer, as you classed him, did you already have his criminal record before you at that time?

MR. NEAL: Your Honor, this is repetitious.

BY MR. BERKE:

Q Or did you look it up, either--

MR. NEAL: (Interposing) Completely repetitious.

MR. BERKE: No, your Honor, I didn't ask the question.

MR. NEAL: It has been asked and answered yes, it certainly has been asked and answered.

THE COURT: Sustain the objection.

MR. NEAL: Before Mr. Hoffa, too, by the way.

THE COURT: Sustain the objection.

MR. SCHIFFER: What was that remark?

THE COURT: Whatever it was, ladies and gentlemen, disregard it.

MR. SCHIFFER: I believe that it was something that was highly prejudicial, your Honor, I move for a mistrial at this time because it's a deliberate attempt by Mr. Neal to insert things which your Honor has repeatedly told him not to do.

THE COURT: Overrule the motion.

MR. BERKE: May I address the Court so as not to ask a question that the Court might think is incompetent?

THE COURT: No, just state the question.

MR. BERKE: All right.

BY MR. BERKE:

Q Were you aware of Mr. Partin's record before or after he agreed to be the informer?

MR. NEAL: Objection as being repetitious, your Honor.

MR. BERKE: I have never asked that question. I am trying to establish that.

THE COURT: All right. Allow you to ask it.

A I knew of some of it probably before and after, especially after.

Q Especially after?

A Yes, sir.

Q All right. At any time after you learned of his record did you ever withdraw him as an informer?

A I don't follow you, sir.

Q Did you ever refuse to do any business or have any connection with Mr. Partin after you had completely checked his record?

A No, I didn't.

MR. BERKE: Hold it just a minute, your Honor. All right, your Honor.

THE COURT: Mr. Silets, the government withdrew their objection to your last question.

You may ask it if you desire.

MR. BERKE: I have this question.

BY MR. BERKE:

Q Do you know William Reynolds?

A I don't think so. Could you give me more about him?

THE COURT: Well.

Q He is from Birmingham, Alabama.

A No.

Q When did you meet Mr. Partin in Birmingham, Alabama?

A That would have been in '64, that would be last month, January.

Q January, 1964?

A Yes.

Q Is that the only time you met him in Birmingham, Alabama?

A That's right.

MR. SILETS: Is it the Court's position I may proceed in this matter?

THE COURT: I understand the gentleman after I sustained the objection, I understood them to withdraw the objection.

MR. HOOKER: Yes, sir, we did.

BY MR. SILETS:

Q All right. How long have you been with the Department of Justice, Mr. Grimsley?

A Approximately three years.

Q How long have you been with the organized crime unit?

A I have been in the same unit since I arrived almost three years.

Q Now, these particular checks that you have in front of you, Exhibit 121, Group Exhibit 121, where were they obtained by you?

A In Atlanta. You speaking of these?

Q Were they mailed?

A You speaking of these?

Q No, not cashier's checks, the Treasury checks, the government checks.

A They were mailed to me in Atlanta.

Q And where were they mailed to you from?

A Washington.

End Tk 29A9
Tk 30 fls.

Q Do you know who issued them in Washington?

MR. NEAL: Your Honor, I have just been advised that the Defendant Campbell left the courtroom. I would like to --

MR. SCHIFFER: (Interposing) He voluntarily left with the permission of the Court. He has a very severe toothache. Sending him to a surgeon. We didn't want to disrupt the trial, your Honor.

THE COURT: All right.

MR. NEAL: I want the Court and everyone to understand that this is just a legal matter that he has to be here. We have no objection to his leaving.

THE COURT: That is all right.

MR. BRANSTETTER: Any problem is waived with reference to that.

THE COURT: All right.

BY MR. SILETS:

Q The last question I think, Mr. Grimsley, was from what source was it in Washington you received these checks?

A The source it came from, the Department of Justice.

Q And do you know who in the Department of Justice caused its issuance?

MR. NEAL: I didn't understand this to be a whole new matter of inquiry, Mr. Silets.

MR. SILETS: Your Honor, I am pursuing that line of inquiry if the government is objecting to it.

THE COURT: Proceed.

THE WITNESS: I don't know the person who issued them or caused them to have been issued. It would have come from the administrative section I am sure.

BY MR. SILETS:

Q Of the Criminal Division?

A Yes, sir.

Q That also is under the authority of Mr. Miller?

A I'm not certain about that.

Q Now, have you been stationed all of your three years in Atlanta?

A No, I was in Washington a year or so.

Q How many other times have you had occasion to work this kind of arrangement, receive checks, Treasurer checks, cash them, and purchase cashier's checks to pay to third parties?

A These are the only ones.

MR. SILETS: Thank you, sir.

THE COURT: If no further examination by defendants, you may cross examine.

CROSS EXAMINATION

BY MR. NEAL:

Q Mr. Grimsley, this cross examination should be

pretty easy since we have known each other some time.

MR. SCHIFFER: Your Honor, I object.

THE COURT: Sustain the objection. Address the question, Mr. Neal.

BY MR. NEAL:

Q Mr. Grimsley, when did the payments start to Mrs. Partin, the first payments?

A The first payment would have been July 1963.

Q July 1963?

A 1963, yes.

Q And along prior to that Mr. Partin had already told Mr. Sheridan of statements made by these defendants with respect to jury tampering, isn't that correct?

MR. BERKE: We object to that, your Honor.

THE WITNESS: Yes, sir.

MR. BERKE: It would be hearsay, asking him to state what he told some other agent.

THE COURT: Sustain what he may have told someone else.

BY MR. NEAL:

Q Have you been aware of Mr. Partin's reports with respect to these defendants' efforts during the Hoffa trial in Nashville?

A Yes, sir.

MR. SCHIFFER: Objected to, your Honor, at this

time.

THE COURT: Overruled.

BY MR. NEAL:

Q This was before the checks were made. Is that correct?

A That's right.

Q Now, sir, you have dealt with Mr. Partin in September 1962 and this was before the Hoffa trial in Nashville. Is that correct.

A That's correct.

Q Was any promise of any payments ever made to Mr. Partin?

A None whatsoever.

Q Was any promise of any sort of relief ever made to Mr. Partin?

A None.

Q Was Mr. Partin ever promised anything with respect to any action by anybody with the federal government so far as you know of?

A As far as I know none has ever been.

Q I believe you said that he was an informant. Actually you told him when you learned that he had been invited to Nashville you told him to keep his eyes open for possible efforts to tamper with the jury. Is that correct?

MR. SCHIFFER: Object, your Honor, to the form of

that question.

THE COURT: Overrule the objection.

BY MR. NEAL:

Q Is that correct?

A Yes, his eyes and ears.

Q And you asked him to do this, is that correct?

A That's right.

Q And to report anything like that as it went along as he heard of it to Mr. Sheridan. Is that correct?

A That's correct.

Q And he agreed to do so?

A He did.

Q Now, to that extent that is what you meant when you said he was an informant. Is that right?

A That's right.

Q Now, sir, you say the first payment to Mrs. Partin started in 1963, July '63?

A That's correct, sir.

Q That was the first payment to you. What was the ending period of those?

A I think the last payment was in November 1963.

Q All right. From July 1963 to November 1963, what was the total payments made? Total payments made to Mrs. Partin?

A $1,200. Let's see. One fifty. Three. Six.

Nine. Here we are, $1,200, I'm sure.

Q All right, sir. Now, sir, has anything else been paid to Mr. Partin or to anyone on his behalf by the federal government?

A Not to my knowledge, no, sir.

Q Isn't it true, sir, that when Mr. Sheridan told you to do this he told you to keep account of expenses?

End 30
30a fls
30a-

MR. BERKE: Just a moment, if your Honor please. We want to object to what Mr. Sheridan, another agent, told him.

THE COURT: Sustained.

MR. NEAL: Your Honor, they went into this, who he got instructions from to do this.

MR. BERKE: We object to it, if your Honor please, as being incompetent.

MR. NEAL: They went into the fact of Mr. Sheridan. He told him to do this. Mr. Miller under whom he did it. Attorney General in the Criminal Division. It looks to me like it is entirely proper.

THE COURT: State a question.

BY MR. NEAL:

Q All right, were you given the duty of determining this man's expenses for trips out of town?

A Yes.

Q Pardon me?

A Yes, I was.

Q And was it your duty to apply or to pay him for his expenses?

A Yes.

Q And did you tell him that you would pay him for his expenses?

A Yes.

Q And are these payments for his expenses?

A Yes, sir.

Q Why didn't you pay them to him?

A He wanted his wife and kids to have money. He said he could take care of himself.

Q In other words, he told you to make any payments for expenses to him to pay them to his wife. Is that correct?

A Yes, sir.

Q And that is what you have done here?

A That is what happened, yes, sir.

Q Have you completely paid him for his expenses?

A I think we owe him some money yet. Maybe -- I haven't an accurate accounting, in my mind, but it is $200 or $300 we must owe him now.

Q Now, sir, as a matter of fact, have you paid him anything for his appearance here in Chattanooga for the week or week and a half?

A Nothing.

Q Pardon me?

A Nothing.

Q You still owe him for that?

A That's right, so it would be greater than the figure I quoted you.

Q Now, Mr. Grimsley, you have been with the Organized Crime and Racketeering Section for three years. Is that correct?

A That's correct.

Q You are familiar with the policies of that section?

A Yes, sir.

Q Criminal Division?

A Yes, sir.

Q Is it within your knowledge, sir, that expenses are sometimes paid in the manner of these that have been paid as a matter of policy so that someone who might not be interested could not determine the connection with the man's federal government --

MR. SILETS: (Interposing) Your Honor, Mr. Neal is --

THE COURT: (Interposing) Sustain the objection.

MR. NEAL: Well, I will see, is that to the form of the question, your Honor?

THE COURT: I sustain the objection to that

question.

MR. NEAL: I am asking him about the policies, your Honor. All right, sir, I will ask you this.

BY MR. NEAL:

Q You have said that these checks were in payment of Mr. Partin's expenses incurred at the request of the federal government. Is that correct?

A Correct.

Q And they were paid to Mrs. Partin because he said don't pay my expenses to me, pay them to my wife, whatever expenses you owe me. Is that correct?

A That's correct.

Q Now, sir, can you tell us why they were paid checks to you and then you paid Mrs. Partin rather than the federal government check to Mrs. Partin?

MR. SCHIFFER: Objected to, your Honor. It has been asked and answered a dozen times already.

MR. NEAL: I don't think it has ever been asked and answered.

MR. SCHIFFER: This very question.

MR. NEAL: I haven't asked it.

THE COURT: The first time in this trial I have missed a question. I didn't have my mind on it.

MR. NEAL: Your Honor, I said that previous to that was the -- that is what the witness has testified to that.

THE COURT: Well, just state your question.

MR. SCHIFFER: May we have the question read back by the reporter, your Honor?

MR. NEAL: Read it back.

THE COURT: All right.

(Thereupon, the court reporter read the question back as follows:)

"Question: Now, sir, can you tell us why they were paid checks to you and then you paid Mrs. Partin rather than the federal government check to Mrs. Partin?"

THE COURT: Overrule the objection.

THE WITNESS: We did it in that manner to protect the identify of the source of information. We did not want to expose this man at that time.

BY MR. NEAL:

Q Was this an effort to conceal from this jury here any knowledge of this?

A No, sir.

MR. SCHIFFER: Objected to, your Honor. Highly prejudicial question.

THE COURT: Sustain the objection.

End 30a
31 fls

BY MR. NEAL:

Q As a matter of fact, you were requested by Mr. Hooker and me to get these--, to get these checks and so the government could produce them?

A That is correct.

MR. SCHIFFER: This is highly objectionable, Your Honor.

THE COURT: Overrule that objection.

BY MR. NEAL:

Q I didn't get your answer, you said.

A That's correct.

Q Were you directed by Mr. Hooker and me to go to Atlanta, get these checks, bring them up here because we wanted to introduce them in evidence, is that correct?

A You wanted to show them, that's right.

Q Now, are those government's exhibits rather than defense exhibits?

A I haven't checked.

Q Would you check, sir?

THE COURT: The record will reflect.

MR. BERKE: If Your Honor please, this is all a play on words. We asked for the checks now he is trying to say out of the goodness of the heart he--

THE COURT: (Interposing) The record will reflect. Sustain the objection to that.

MR. BERKE: We object to that.

MR. NEAL: All right, sir. Now, sir, one last-- May I approach the witness, Your Honor?

THE COURT: All right.

MR. NEAL: Now,Your Honor.

MR. NEAL:

Q Sir, you see four checks here totaling $1,200.00, I believe, is that correct?

A That is correct, yes, sir.

Q Now, would you look at photostats and see if it is not a fact that they are mere photostats of these four checks?

MR. HOOKER: Jim, Jim, two photostats of each check.

MR. NEAL: Yes.

MR. HOOKER: And call attention to the number on that so there won't be any question about it.

BY MR. NEAL:

Q Won't you see if in fact there are two photostats of each check?

A Each check, that is correct.

Q Those are the only checks there, aren't there?

A That's correct.

Q So the only checks here from the Federal Government concerning these payments, is that correct, that we have been testifying about?

A That's the ones.

MR. NEAL: I am sorry, Your Honor, I do want to get this matter clear about the checks.

MR. HOOKER: Pass them to the jury and call attention to this.

MR. SCHIFFER: May I ask Mr. Neal and Mr. Hooker hold their conversation away from the jury, if Your Honor please.

THE COURT: All right.

MR. NEAL: I am sorry.

MR. HOOKER: Trying to get away from you, Mr. Schiffer.

MR. SCHIFFER: No, I won't snitch on you.

THE MARSHAL: Order in the court.

MR. HOOKER: All right.

MR. NEAL: May it please the Court, I would like to pass these to the jury so that they can clearly see that they are just four checks.

MR. BRANSTETTER: May it please the Court, let him pass them to the jury without his comments.

MR. NEAL: Very well, very well.

MR. HOOKER: Jim, two photostatic exhibits of each check.

BY MR. NEAL:

Q Mr. Grimsley, just to make absolutely clear, there

are four checks there, original checks, is that right?

A That's right, that I signed.

Q And there are two photostatic copies of each of the four checks.

A That is correct.

Q For a total of $1,200.00.

A $1,200.00.

Q Now, the checks from you to Mrs. Partin, would you tell us what is the total on that, handing you the exhibits, I guess they are all 121.

A O. K., $1,200.00.

MR. HOOKER: Pass that to the jury.

MR. NEAL: Will you pass those to the jury, Mr. Sertel? No further questions.

THE COURT: All right.

MR. SCHIFFER: I should like to ask a few questions, Your Honor, based on the questions put by Mr. Neal.

THE COURT: All right.

MR. SCHIFFER: Just one question.

BY MR. SCHIFFER:

Q Did you have submitted to you by Mr. Partin at the time you made out these payments an itemized bill of what the check covered?

A He told me what trips he had taken and what expenses, the expenses he had incurred.

Q Now, you had the obligation of paying out United States treasury money, is that correct, in cash?

A That is correct.

Q Did you receive from this man to whom you gave all of this cash itemized bills, add them up and total them before you paid him any money?

A No, I did not.

Q You did not. And so you took his word for whatever he said was the amount, you simply gave it to him, is that right?

A I knew where he had been and I knew mileage.

Q I didn't ask you that, sir. I am saying to you, you simply gave him the amount of money he said he had spent and you never bothered to check the items, did you?

A I checked in my own mind to be sure that if he was to be paid a hundred dollars, as some of these checks will show here to his wife that he had traveled or lost that much time.

Q Well, tell me, wasn't the arrangement made you were going to send his wife $300.00 a month for support?

A The $150.00 twice each month.

Q $150.00 twice each month. And so it was not based upon what his expenses would be as he told you he was spending money and in expenses, but rather for the support of the children.

A But we--

Q (Interposing) Is that right?

A More or less--, that's correct, yes.

Q At that time did you check into whether he was receiving expense money from the union while he was carrying on these activities?

A No, sir, I didn't. I had no access to the union records.

Q And on these very trips he was making with which you were acquainted, wasn't he visiting people in the business, his union business at the very same time?

A That I don't know.

Q Did you ever ask him?

A I never did.

Q Well, the only question I have remaining then is this, you tell me if I am in error.

A Pardon me?

Q You correct me if I am in error. I understand from you then that whatever Partin would say that he had spent in expenses you would then send his wife a check for that amount but you never took a receipt from him for the money you gave him and you never accounted to your superiors for the cash United States money he was spending out of the United States Treasury, is that correct?

A I never passed any money to him.

Q I say, the cash monies you were letting out, whatever amounts he was talking about, you simply would cash whatever had been sent to you by the government, you would convert that into some other form of payment, but aside from the checks which you were sending out you never took from Mr. Partin any verification of what you were giving him or what they represented?

A No, sir, I didn't take any.

End 31

31 A fol.

Q Did you know the amounts of money and these amounts you have testified to and as reflected by these checks were in fact the alimony or support payments to his family?

A It could have been, it's the same amount.

Q Pardon me?

A It could have been, it's the same amount, $300.00 per month.

Q It is the same amount of money?

A Yes.

Q And did this money come out of the general fund of the Department of Justice controlled by the Attorney General?

THE COURT: Mr. Schiffer, isn't this all a matter of direct examination and matters that were covered?

MR. SCHIFFER: Mr. Neal, I understood, Your Honor, had asked these very questions concerning--

THE COURT: (Interposing) Going back over exactly the same thing that was covered also by direct examination. You were given an opportunity to ask any questions you desired on direct examination.

MR. SCHIFFER: This is what Mr. Neal I thought had brought out, you see.

BY MR. SCHIFFER:

Q When you would discuss the money like the three hundred check and the $150.00 checks before you spoke to Mr. Partin about those checks would you already have first consulted your superiors in the department?

A Before each payment?

Q Yes.

A No, sir.

Q Then you were given blanket approval to keep paying him at the rate of approximately $300.00 a month until the orders were curtailed, is that right?

A More or less, yes, sir.

BY MR. NEAL:

Q You say, Mr. Grimsley, you have answered, "More or less" to a couple of questions in trying to be responsive. Isn't it a fact, sir, before the first check went out Mr. Partin had already taken numerous trips, including these trips to Columbia, Tennessee, that we have talked about on behalf of the Federal Government for which he had not been

reimbursed even his hotel or motel?

A That is true, he had been to Atlanta and to Alabama.

Q All right, sir. Now, sir, you said more or less you kept paying these checks. Isn't it a fact that you were adjusting these checks to expenses?

A To a degree, yes, sir, but not a very close or accurate accounting, no, sir.

Q Now, sir, you said that you didn't ask him to itemize. How did you figure, how did you figure up his expenses? Did you know where he was when he was out on government business?

A I know he would say, "I am leaving Baton Rouge, I am going to, say, Columbia, Tennessee."

Well, I would take the Rand-McNally map or book or whatever it is, get the number of miles and pay on the rate of ten cents per mile in arriving at this accounting here.

Q And did you pay a regular per diem for the days?

A Each day at $16.00 per day.

Q Is that the regular government expense per diem?

A Yes, it is.

Q Pardon me?

A Yes.

Q Is that an approved per diem and mileage of the

Federal Government?

A That is right, that is the government standards.

Q I believe they are cutting us down now to twelve, aren't they?

End 31 A That's right, after thirty days.

32 fol.

Q Is it a fact then that each time you give him a check for $300 and $300 and another $300, and two for $150 checks, you are telling this jury now that each time before you gave these round figures in money to his wife you sat down and calibrated on a map what his mileage was and each time it came out to $300 or $150?

A Let me explain my answer.

Q That is the answer you made, is it not? Just now to Mr. Neal?

A Let me explain my answer.

Q Just a moment, did you to Mr. Neal, did you tell Mr. Neal that you took out a map and calibrated the mileage and each time when you gave him $300 that it was exactly the same identical mileage with Mr. Partin the period before when you gave him the other $300?

A What did Mr. Neal ask? Could we have that read back?

Q I'm asking you, not what Mr. Neal said, what you said. Did you not just say to Mr. Neal that you took a Rand-McNally map and you followed the mileage and you calibrated all that and each time it came out to $300 or twice to $150?

A I said calculated the figures on a sheet that I turned in. The sheet is lying over there.

Q Did you turn into your superior the itemized

amounts totaling $300 in each case or $150 in each case which you had received from Mr. Partin and did you transmit that to your superior?

A No, I didn't.

Q Who did you turn those sheets in to?

A I turned them in to Mr. Sheridan.

Q Mr. Sheridan, well, your Honor, we should like to make a demand at this time, we should like the records from Mr. Sheridan.

A Just on one sheet.

MR. SCHIFFER: While this witness is on the stand we would like to examine those records, if your Honor please.

THE COURT: Any further questions of this witness?

MR. SCHIFFER: Your Honor, we should like those records. We believe those are in the form of Jencks statements of this witness.

THE COURT: Sir, this is a witness you put on the stand.

MR. SCHIFFER: Your Honor, this is a hostile witness.

THE COURT: I haven't seen any hostility of this witness.

MR. SCHIFFER: We didn't put him on the stand, as I understand your Honor. He is not testifying for Mr.

Parks.

THE COURT: Proceed.

MR. SCHIFFER: Your Honor, Defendant Parks didn't put him on the stand.

THE COURT: Proceed.

CROSS EXAMINATION

BY MR. SILETS:

Q Mr. Grimsley, do you know the function of the General Accounting Office?

A Pardon?

Q Do you know the function of the General Accounting Office of the United States Government?

A Yes, sir.

Q Do you know that the General Accounting Office requires some substantiation for each disbursement by the federal government?

MR. NEAL: Your Honor, that is highly objectionable.

THE COURT: Sustain the objection.

MR. NEAL: I think Mr. Silets knows that.

BY MR. SILETS:

Q Did you make an accounting for the disbursements and substantiation for the disbursements to be used by the General Accounting Office?

MR. NEAL: Objection as being repetitious.

32-4

MR. SILETS: It is not repetitious, your Honor. The government wants to dispute the fact that the General Accounting Office, the watchdog of the government on all expenditures requires some evidence for each disbursement.

End 32
32a fls

THE COURT: Well, if he knows, let him answer.

THE WITNESS: Did I prepare anything for the GAO?

BY MR. SILETS:

Q Yes, sir.

A No.

Q You only prepared something for Mr. Sheridan, is that correct?

A Not in every instance.

Q So that your testimony is that not every instance did you prepare any accounting?

A That's correct.

Q Just in some instances?

A That's correct.

MR. SILETS: Now, your Honor, the government has turned over to the Court what it had indicated was all of the records in the possession of the government.

THE COURT: Now, if you have a question, Mr. Silets--

MR. SILETS: (Interposing) Your Honor, I want to use it for my cross examination.

THE COURT: What cross examination? This is your witness. You gentlemen put this witness on the stand.

MR. SILETS: No, sir, I didn't put him on the witness stand.

MR. BERKE: Just a minute, if your Honor please, may I be heard on that question?

THE COURT: If you have further questions, address your questions to the witness.

MR. BERKE: If your Honor please, I would like to cite the Court a rule on putting on government agents. In the case of United States vs. Freeman, if your Honor please--

THE COURT: (Interposing) Mr. Berke, what does this have to do with a request at this time by Mr. Silets for the government to produce something? Ask the witness any question you wish.

MR. BERKE: He is under subpoena duces tecum to produce.

MR. SILETS: Just a moment, your Honor, I am not asking the government. I am asking the Court. The Court has in the Court's possession documents furnished by the government.

THE COURT: You will ask your questions, sir, or make your demand, what is it you are asking?

MR. SILETS: I am demanding court documents turned over by the government to the Court, all records of expenditures with respect to these monies paid to Mrs. Partin so I may inquire of this witness. I have made this motion before. In response the government turned over what they

said were all of the records to the Court. Now, I want to use this record in the possession of the Court to examine the witness.

THE COURT: Well, are there any other records, gentlemen?

MR. NEAL: No, your Honor, we have no other records. We have turned over to the Court all records we have.

THE COURT: Well, that is the checks?

MR. SILETS: No, sir, your Honor has sealed some records.

THE COURT: I am not aware of having sealed any records.

MR. SILETS: My understanding was that there were some memoranda or some expense vouchers or something turned over by the government that were sealed.

MR. NEAL: Your Honor, I think we turned over to the Court an expense account of Mr. Partin's. I believe as kept by Mr. Grimsley. I thought, reasonably sure, we turned it over to the Court. I don't think this is a matter--

THE COURT: (Interposing) I have checked all the papers back there that have been filed and I wasn't aware of it. We will take a recess. Let me check all the papers that have been filed.

MR. SILETS: I am advised it may be Exhibit No.

154, your Honor.

THE COURT: Do you have Exhibit No. 154?

MR. SILETS: I believe it would be a sealed document, your Honor.

THE COURT: Let's be in recess, ladies and gentlemen of the jury, for a few moments, please. Step out. Remember your instructions.

(Thereupon, at 4:07 o'clock P.M. court was in recess.)

End Tk 32A
Tk 32B fld

(Thereupon, after recess, in the absence of the jury of 12 and 4 alternates, court was in session and the following proceedings were had, to-wit:)

THE COURT: The Court has handed to Mr. Neal sealed Exhibit No. 154. Is that correct?

MR. NEAL: 154.

THE COURT: Which the Court has opened. Are those the documents?

MR. NEAL: These are the only documents I know of relating to expenses paid.

THE COURT: What do you say they are requested for those documents?

MR. NEAL: What do I say with respect to it?

THE COURT: Yes.

MR. NEAL: They are not entitled to them. This is their witness. They put him on. How are they entitled to expenses matters that he figured up and has? I don't understand it.

THE COURT: Aside from whether they are entitled to it?

MR. NEAL: What is the basis? Why not turn it over?

THE COURT: Yes.

MR. NEAL: Why not?

THE COURT: Well, all right.

MR. NEAL: Not the blue document, Your Honor.

THE COURT: Interoffice memo?

MR. NEAL: Yes, sir. Simply a matter that an attorney for the Department of Justice has no right to go turning over interoffice memoranda. That is the basis for the blue one.

THE COURT: Well, all right, turn that over to the defendants.

MR. SILETS: Your Honor, our position is anything that relates to these disbursements is pertinent and material and competent and it should be turned over. The fact that it is an interoffice memo within the Department of Justice, that is the very issue.

THE COURT: Again, from the government, aside from the fact, of course, the government has no authority to turn over interoffice memoranda, is there any other?

MR. NEAL: Could we see it just a moment, Your Honor? If it doesn't have something that would be sort of privileged matter on it? It looks like to me--, I would say, Your Honor, that they wouldn't be entitled to it. I would not like to turn it over. Memorandum from one person in the Department of Justice to another. I don't see any possible basis for turning it over.

THE COURT: Excuse me.

MR. NEAL: I was just going to say, I think the

Court has gone beyond what is necessary to turn the white one over, but we agree to it. I certainly think they have got more than they are entitled to. I don't think they are entitled to that interoffice memorandum from one man in the Department of Justice to another.

End 32B

Tk 33 fol.

THE COURT: Well, I don't think that they are technically entitled to it under the law either, but, on the other hand, I can't see any prejudice to anybody.

MR. NEAL: If your Honor thinks that way about it, I certainly don't want any error involved, if your Honor thinks it should be turned over.

THE COURT: I don't see any prejudice. Make it available.

MR. HOOKER: Glad for them to see it, if your Honor please.

THE COURT: Those are the contents. Now, the sealed Exhibit No. 154, I had sealed this envelope, I assume this envelope which the Court has opened should be refiled as the remaining exhibit.

All right, have the jury return.

MR. NEAL: Your Honor, before the jury comes in, we do object to the further cross examination of this witness.

THE COURT: Yes, this has been --

MR. NEAL: (Interposing) I'd like to cite your Honor a case on this point.

THE COURT: The examination of this witness has been quite irregular.

MR. NEAL: It's in Rea -- correction, Siglar, Siglar versus United States, 208 F. 2nd, page 865, Fifth Circuit, 1954, and particularly at page 868.

THE COURT: I didn't get that. Just a minute, Mr. Neal, I have my mind on another matter. Just a moment, just let me make a note.

All right, are we ready to proceed?

MR. BERKE: If your Honor please, since he has cited that we would like --

THE COURT: (Interposing) Let me get that citation. I don't know whether I have it or not on the notes.

MR. NEAL: This will apply generally to the witnesses called by the defendants, I think. It's Siglar versus United States, 208 F. 2nd, 865, particularly, your Honor, at page 868.

The same rule, your Honor, is implicit in Stanley versus United States, 245 F. 2nd, 427, particularly at 433, and United States versus Mercks (spelling) M-e-r-c-k-s, 304 F. 2nd, 771 at page 772, particularly the Siglar case, your Honor, the first one that was called, the others corroborate it.

THE COURT: Do you have some authority which you wish to cite, Mr. Berke?

MR. BERKE: Yes, your Honor, the case of United States versus Freeman, 302 Fed. 2nd, 347 at page 351, a very brief statement, if your Honor please, right on the point.

It says that where a defendant calls government

agents to the stand in an effort to establish some part of his defense he should be given every reasonable leeway in bringing out whatever may be relevant to the issues before the jury. It is pointless to require a showing, such as the trial judge indicated might be necessary, that such witnesses are hostile. The agents for adverse parties within the meaning of Rule 43b of the Federal Rules.

THE COURT: I haven't prevented leading questions at all on this witness. I have felt that there should be some more order in the manner in which he has been examined, we were just passing him back and forth, but let's proceed.

MR. BERKE: This says it permits cross examination, if your Honor please.

THE COURT: All right, sir. Those documents should be filed as Exhibit 154 so that will remain identified.

MR. SILETS: May we have them admitted in evidence?

THE COURT: I see no reason why not. Any objection to these being received?

MR. HOOKER: No objection.

THE COURT: They will be admitted into evidence then as Exhibit 154.

MR. SILETS: 154, yes, sir.

THE COURT: Is that correct?

MR. SILETS: Yes, sir.

(The sealed envelope and contents previously marked Exhibit No. 154 for identification were received in evidence.)

MR. BRANSTETTER: May it please your Honor, I believe the envelope might also be identified in the same manner.

THE COURT: It retains its same designation.

MR. SILETS: Yes, sir, instead of being sealed, however, they are now of record.

THE COURT: Yes.

(Thereupon, the jury of 12 and 4 alternates returned into open court and the following further proceedings were had, to-wit:)

BY MR. SILETS:

Q Now, Mr. Grimsley, in the absence of the jury, the Court has opened a sealed exhibit, 154, and turned over to me the contents of them. I --

MR. NEAL: (Interposing) Just a moment, your Honor, I don't like the inference there. The Court asked the government if it had any objections, we said no, no objection.

THE COURT: The Court has made available at all times everything that is legally available.

MR. SILETS: I didn't mean to imply any --

THE COURT: (Interposing) Just state your question.

BY MR. SILETS:

Q Now, I have in my hand the contents of Exhibit 154 and I hand to you what is typed on a notebook sheet of paper with three holes in it and I ask you to tell the jury what is typed on the notebook paper?

A It says, "Expenses only, residence to Atlanta, Georgia, and return by Delta Airline, first class."

Q Will you just identify it, officer?

A Oh, it is a chart showing an accounting that I made as to where we stand with Mr. Partin as of, say, a month ago.

Q When was that prepared?

A It was prepared, I would say, in January of this year, I haven't made one out for this month.

Q After the start of this case?

A No, before this case started.

Q But in January of this year, is that right?

A That's correct.

Q '64?

A That's correct.

Q Now, the checks that were passed --

MR. HOOKER: (Interposing) We'd like for the jury to see it.

MR. SILETS: Yes, I will pass it to them, Mr. Hooker.

BY MR. SILETS:

Q The checks that were issued in the months of July through October, November, and that you cashed and then purchased cashier's checks and sent to Mrs. Partin, do you know to what fund it was charged?

MR. NEAL: Now, your Honor, this is clearly not relevant evidence.

MR. SILETS: Your Honor --

MR. NEAL: (Interposing) May I be heard? Put this witness on the stand, examine, re-examine.

MR. SILETS: Your Honor, the theory of our defense --

THE COURT: (Interposing) Just state your question.

MR. SILETS: I have stated it.

THE COURT: Allow him to answer, if he knows he can say so, if he doesn't he can say.

BY MR. SILETS:

Q Was it charged to a travel expense fund?

A I don't know how it was charged.

Q Isn't it true it was charged to something called a confidential fund?

A There is such a fund but whether or not this was actually charged I don't know.

Q What is the confidential fund?

MR. HOOKER: We object to that.

THE COURT: Sustain the objection.

MR. SILETS: May I understand, is it the form of the question?

THE COURT: I sustained the objection. He said he doesn't know how it was charged.

BY MR. SILETS:

Q Have you had any experience with the confidential fund?

A Very little.

Q Of the Department of Justice?

A Very little.

Q You do have some experience with it?

A I know such a fund exists but just how it's operated I do not know.

Q Do you know the purpose of the fund?

A No, I can't say I know definitely what it's for. I have some idea.

Q Isn't it true it is used to pay informers?

A I wouldn't think it would be used that way altogether, of course, like I say, I am not familiar with the complete operation of the fund.

Q Isn't it used for surreptious payments to persons?

MR. HOOKER: He said he doesn't know.

MR. NEAL: We object to that. We have established no surreptiousness in here.

THE COURT: Sustained.

BY MR. SILETS:

Q Well, do you know Mr. Andretta, the man who gives you your raises and so on?

A I know the name.

Q He is in charge, he is the administrative assistant to the Attorney General of the Department of Justice, isn't he?

A That is correct.

Q Now, I show you what has been marked as Exhibit -- he is sort of the watchdog of the Department of Justice, isn't that right, the financial watchdog?

A He has the administrative division, that's true.

Q All right, now, I show you what is marked as Exhibit 154, a part of a group exhibit, it is a United States Government memorandum to Mr. Andretta from Walter Sheridan dated July 3rd, 1963. Will you look at it, sir, and see if you have ever seen it before?

End 33
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A I have never seen this.

Q Does it help you refresh your recollection as to which funds these payments for Mr. Partin were charged to?

A According to this--

MR. NEAL: (Interposing) Your Honor, he said he had no knowledge.

MR.SILETS: I am asking him if that refreshes his recollection. Simple yes or no.

THE WITNESS: According to this it would come from the Confidential Fund.

BY MR. SILETS:

Q From the Confidential Fund, now, Your Honor, this is in evidence and may I read it to the jury?

THE COURT: Just hand the document to the jury.

MR. HOOKER: We would like the jury to see both documents.

MR. SILETS: Oh, yes, but may I read the one?

MR. HOOKER: It is short. Would like for them to read it themselves.

MR. SILETS: This is--

THE COURT: (Interposing) Pass them to the jury. Let the jury see them.

MR. SILETS: All right.

BY MR. SILETS:

Q Now, isn't it a fact, sir, that at the time that

this memorandum was issued that the intention was to make a payment to Mr. Partin and that that was a flat payment of $300.00 a month? Isn't that true?

A It appears that way, yes, sir.

Q And isn't this your method of substantiating those payments after the fact, after the decision was made to pay him $300.00 a month and in anticipation of the Nashville--, of this very case being tried in Nashville? And his being paid $300.00 a month in anticipation of this very case then as of January of this year, wasn't this document, the notebook paper prepared to substantiate the $300.00 a month?

MR. SILETS: Now, Your Honor, I ask the Court to rule on Mr. Neal making these asides.

THE COURT: The Court did not hear any asides. State your question to the witness.

BY MR. SILETS:

Q Is that not true?

A That was a long one. Let me break it down in my mind. At the time of this memo I believe this was in July, 1963.

Q Correct, sir.

A Mr. Partin had made several trips around the country and had not been reimbursed in any form.

Q Well, isn't it--

MR. HOOKER: (Interposing) Wait a minute, let

him finish his answer.

THE WITNESS: He had not been paid in any form, shape, or fashion. So any monies that were going to him were already owing to him.

BY MR. SILETS:

Q Isn't it true, sir, that this memo calls for a flat payment charged to a confidential fund?

A That is what it says.

Q Yes, sir.

A Each month.

Q Now, is it customary for your office or for Mr. Andretta or for the government accounting office or any other watchdog agency of the United States government to take a notebook piece of paper as substantiation for travel?

A I'm not familiar with that procedure, sir.

Q Let me ask you this, sir, when you yourself are on travel status, is this the method by which you obtain reimbursement for your travel?

MR. NEAL: Your Honor, this is not competent examination at this time. This witness has--, may I make my objection? This witness says he was given the job of keeping account of the expenses of Partin. And reimbursing him according to the way Partin suggested to his wife. Now he has not said he submitted any paper to the government or what-not.

End 34
34A fol.

THE COURT: Sustain the objection.

MR. SILETS: Your Honor, my position is--

THE COURT: (Interposing) State your question.

MR. SILETS: That this is so highly irregular and unusual that the jury should be aware that this is never done.

THE COURT: Now, sir, ladies and gentlemen, just disregard that remark. If you wish to argue your case you will have an opportunity. Sustain the objection. Argue the case at another time.

MR. SILETS: With all deference to the Court, I am trying to point out the relevancy.

THE COURT: Sustain the objection. The question is irrelevant.

BY MR. SILETS:

Q Mr. Grimsley, you said you joined the Department of Justice about three years ago?

A That's correct, sir.

Q Is that the same time that Mr. Neal and Mr. Sheridan and the present attorney general all took office together with you at the same time?

MR. NEAL: Your Honor, that is clearly objectionable.

THE COURT: Sustain the objection.

BY MR. SILETS:

Q In your three years experience with the Department

of Justice, do you know of any other situation where expenses were paid on notebook paper?

MR. NEAL: Your Honor, that is clearly repetitious.

THE COURT: Sustain the objection.

MR. SILETS: That is all.

THE COURT: Let's have the--, is that not part of the exhibit?

MR. SILETS: That is a duplicate of the original.

MR. BERKE: That is just a copy.

MR. SILETS: Looks like a carbon copy.

THE CLERK: It was all together.

THE COURT: It was all together, let's keep it all together.

MR. SILETS: May we have leave of the clerk, Your Honor, pursuant to our standing agreement to have copies made at the clerk's convenience?

THE COURT: Yes, sir.

MR. SILETS: Thank you.

THE COURT: All right, anything further of this witness? If not, you may be excused.

(Witness excused.)

THE COURT: All right, ladies and gentlemen of the jury, it is adjournment time. We will excuse you. Let's first wait until the jury has examined any exhibit they may have to examine. Was the white paper also passed to the

jury?

THE CLERK: Yes, Your Honor.

THE COURT: You might pass the other copy of it to the back row so that they can be examining the other copy.

THE CLERK: Yes, Your Honor.

THE COURT: All right, ladies and gentlemen of the jury, the jury may be excused at this time and be back, all sixteen of you at nine o'clock in the morning. Observe, of course, the same instructions I have previously given you. Do not discuss the case or allow anyone to talk to you about it. Thank you.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom, and in their absence, the following proceedings were had, to-wit:)

THE COURT: Before the jury leaves, wait just a moment. Just have them--

(Thereupon, in the absence of the jury of 12 and 4 alternates, the following proceedings were had, to-wit:)

THE COURT: I have just been handed a note that Mrs. Partin is here and would like to leave tomorrow. But--

MR. HAGGERTY: (Interposing) She is subpoenaed. I have talked with Mrs. Partin this afternoon. Told her we would get to her immediately tomorrow. The way the proof is going yesterday and going today. I subpoenaed her for this afternoon. I would like to get the lady on as soon as possible.

If the government will waive order of proof I will put her on the first thing in the morning.

MR. NEAL: Your Honor, we're going to insist on voir dire with this lady, with the Court's permission, of course. We insist she has no relevant testimony. She has stated to the marshal she has no relevant testimony.

MR. HAGGERTY: Well, now, what she stated--

MR. NEAL: (Interposing) I am advised that she has said she does not want to testify.

THE COURT: I didn't mean to start an argument, gentlemen. That is the last thing that was in my mind.

MR. NEAL: Well, the government was just stating its position. If Your Honor please, may I state the government's position on this, Your Honor?

THE COURT: Well, Mr. Neal, the only question I had--

MR. HAGGERTY: (Interposing) I'm not going to argue this now. I'm going to argue on the voir dire if the Court orders voir dire. I have talked to this lady personally.

MR. NEAL: I know. She has indicated such.

THE COURT: If you gentlemen wish to stay here and discuss this tonight after the Court leaves, you can stand here and talk all night.

MR. BRANSTETTER: I would like to be excused.

THE COURT: I merely asked whether you wished to

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continue tonight. It would be the Court's preference that we take this witness up tomorrow morning.

MR. HAGGERTY: Why, certainly, tomorrow morning.

THE COURT: All right.

MR. HAGGERTY: Your Honor, I have one more thing. I have 28 subpoenaes here of Federal Bureau of Investigation Special Agents. Now, if the government will commit itself and bring in these witnesses as they are needed, as he is needed, I will dispense with the forthwith subpoena. Otherwise, I have 28 of them. I don't want to wreck Mr. Hoover's department.

34A

Tk 35 fol.

THE COURT: Well, is this a matter that the Court can appropriately pass on?

MR. HAGGERTY: I am asking the government if they--

MR. NEAL: (Interposing) The government is not going to try Mr. Haggerty's case. Let him get his witnesses. If we can cooperate to help the Court and expedite the thing, we will be glad to but I don't know who he has subpoenaed.

MR. HAGGERTY: We will bring them in, we will bring them in tomorrow.

MR. NEAL: Go ahead. The only way I know to do it, of course, we will also contest the admissibility of the evidence.

THE COURT: Yes, Mr. Berke.

MR. BERKE: If your Honor please, unless I am sadly mistaken, as I understand the state of the record now on several motions that have not been responded to by the government, and I would like to stand corrected if I am wrong, we have motions for production of recordings, transcriptions of all kinds, other than the two that have been filed and, as I understand the state of the record, Mr. Neal says he won't dignify it with an answer or a response.

Now, I have copies of them and I can't find in my file where he has responded to these particular motions.

THE COURT: Mr. Berke, the Court has copies, I am sure, of all motions. There have been a number of them.

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in error, I don't think the marshals, I think she said it to some government agency or agent or attorney, but not to the marshals.

End Tk 35
Tk 35A fls

THE COURT: All right. The Clerk will file that and deliver it to the Court.

MR. NEAL: Your Honor, we have filed on February the 19th, your Honor, we filed and I have a copy of it here, I am sure it was reflected in the record, government response to the Defendant Hoffa's motion for production and Defendant Hoffa's motion of February 18, 1964. I think that is the thing they are referring to, copies have been served.

MR. BERKE: If your Honor please, we would like an instruction, if the Court would, we think it would be proper in this case for the Court to advise the marshals not to discuss these matters with witnesses and not let the marshals advise the United States Government what our witnesses have told the marshals, that they don't want to testify or they don't want to stay here or things to that effect.

I think the Court has previously asked the marshals to do that and from Mr. Neal's statement, if that is true, then we think the Court should advise the marshals to leave the witness problems to the attorneys and to the Court.

MR. NEAL: I may have been in error on that, your Honor.

MR. BERKE: That's what you stated.

MR. NEAL: I said that, I said I may have been

MR. BERKE: Yes, your Honor.

THE COURT: A number of them filed. In order that the Court may be properly advised you can either provide me with copies to check against mine so that I can check and then I will deliver your copies back.

MR. BERKE: All right, your Honor, we have a motion for the production, it's labeled, another one that is labeled simply a motion and another one that is labeled Defendants' Reply Memorandum in support of their motion to suppress evidence based on wire taps, eavesdropping and alleged, other alleged invasion of privacy and in opposition to James F. Neal's motion to quash the subpoena duces tecum and in support of the Defendant Hoffa's motion filed February the 18th, 1964.

THE COURT: If you will do this, let me have these at this time and I will immediately upon adjourning check them against my records and then if you will, please, either pick them up this evening or you can get them back in the morning.

MR. NEAL: Government files now in open court its motion to quash the second subpoena served on James F. Neal on February 20, 1964. In order that everybody be clear I am attaching the original subpoena to the original motion to quash and I am serving copies on everyone, I am putting them on the defense table here.

THE COURT: At any rate, yes, the marshals are officers of the court and so shall conduct themselves at all times.

MR. HAGGERTY: Your Honor, I have a supplemental memoranda in response to the government's motion of law relating to the admissibility of intrinsic evidence, the original was filed, I believe, this morning.

THE COURT: All right. Anything further to take up at this time?

MR. HUTCHESON: If your Honor please, I have two subpoenas which are--

THE MARSHAL: (Interposing) Court is still in session.

MR. HUTCHESON: Which are returnable forthwith. I'd like to make a statement to the Court, if I may, with regard to them.

THE COURT: All right.

MR. HUTCHESON: If your Honor please, I have been handed two subpoenas duces tecums, two subpoena duces tecums, one Emmett F. Tucker, who is a trustee of Local 5 in Baton Rouge, the other is Douglas Partin, who is neither a trustee nor an officer of Local 5 but is a brother of the Witness Partin.

The contents of the subpoenas struck out the word "testify" and indicated that they should appear with

certain records and the records take a paragraph to identify and the witnesses indicate to me that they have none of the records which they have been requested to bring, have not been talked to by any persons on the defense on whose behalf they were supposed to have been subpoenaed.

There is one other witness who has retained our firm, Dennis Pedescleaux, who is assistant business agent of Local 5.

Mr. Pedescleaux received a subpoena ad testificandum indicating that he should appear to testify on the 18th day of February and he has been here since that time. He rushed to get here and he has not been contacted nor has he been called to testify, he has been cooling his heels for three days.

Now, if your Honor please, I now orally move the Court to quash all three of these subpoenas because this is an abuse of the process of this court.

MR. HAGGERTY: And now--

MR. HUTCHESON: (Interposing) I think there ought to be a time culmination for this type of subpoena, it is harassing the people in Local 5 in Baton Rouge who have to come up here this distance with no obvious relationship to this case, it's a fishing expedition. The discovery procedure is not even being used and I have yet in my experience as an attorney never seen a witness being called

without having talked with him first to see what he is going to testify to and I will reduce my motion to quash to writing and present to your Honor in the morning.

THE COURT: All right.

MR. BRANSTETTER: May it please the Court, I don't think I filed this one. We just had a witness on the stand the last three hours, I never talked to him before and I put him on. I think it's a quite common practice.

MR. NEAL: Your Honor, in relation to that, it refers back to what I had mentioned this morning about the Sheriff Jett, who was subpoenaed, called down here away from his offices as high Sheriff of Davidson County, called down here, examined and then told he could be excused, all without any reference to the Court or anything else.

MR. SCHIFFER: Judge, on behalf of the sheriff, may I say to the Court I spoke with him, he was highly satisfied with the way I proceeded with him and he thanked me very much and said if I come into Nashville to drop over and say hello, he did not feel harassed at all, Mr. Neal.

THE COURT: Well, gentlemen, this business of conducting your investigation by subpoenaing people to come here to Chattanooga from all over the United States does seem to the Court to be quite irregular.

MR. HAGGERTY: Isn't that exactly what the government does in a grand jury case?

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THE COURT: We are not a grand jury, Mr. Haggerty.

MR. HAGGERTY: We are not doing that, your Honor.

THE COURT: We are not a grand jury, Mr. Haggerty.

MR. HAGGERTY: I understand that, your Honor, but we have a perfect right to subpoena these people, these people are hostile and will not talk to us and it is rather humorous that a young gentleman representing the capitalistic forces in Chattanooga is so solicitous of No. 5 now.

MR. HUTCHESON: If your Honor please, I--

MR. HAGGERTY: (Interposing) Local No. 5 in Baton Rouge. He is not an attorney of record, he has no standing in this court only to make a motion to quash.

MR. HUTCHESON: I have made such a motion, Mr. Haggerty, and I can represent my clients.

MR. BERKE: We haven't got a copy.

MR. HAGGERTY: We haven't got a copy.

MR. HUTCHESON: I will get you one in the morning, I have not reduced it to writing.

MR. HAGGERTY: Don't take the time of the Court until you have.

THE COURT: Just say if the Court finds that counsel are abusing this process the Court would expect to deal with that problem at the appropriate time. Well, file your motion in writing.

End Tk 35A
Tk 36 fls

Tk 36-DC1

MR. BERKE: If your Honor please, one of our --

THE COURT: (Interposing) For example, Mr. Schiffer, had you talked with the sheriff before you subpoenaed him? Did you get him on the telephone or anything?

MR. SCHIFFER: No. I had someone get in contact with him. I wanted to find out certain information whether they appeared of record.

THE COURT: And you subpoenaed him down here?

MR. SCHIFFER: We subpoenaed him.

THE COURT: Paid him?

MR. SCHIFFER: Paid him for his time.

THE COURT: Talked to him and sent him back?

MR. SCHIFFER: I spoke with him. After the conference I found out the chief of police had been, your Honor, the chief of police had been consulted. Now, I just want to get one inference over to the Court, now, so that I can answer Mr. Neal fully as he has tried to imply to the Court.

When the defendants send out subpoenas we expect they are going to be obeyed. It so happens, your Honor, that many of the people we have been forced to subpoena would not even speak with us before they received the subpoena. They are hostile people. In the employ of the government. Many of them are in subservient or even subservient to Mr. Neal, Robert Kennedy, the very people I say have trumped up

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this whole --

THE COURT: (Interposing) Is that true of the sheriff? Is that what you say about the sheriff?

MR. SCHIFFER: I didn't say the sheriff.

THE COURT: That is what I was talking about, Mr. Schiffer.

MR. SCHIFFER: The most I can do, Judge, if I hear of a witness somewhere that can help my cause, I will subpoena him and I defy Mr. Neal to show you one witness I cannot. I will determine whether to use him, not Mr. Neal. He is no judge here.

THE COURT: All right. If there is nothing further, let's adjourn court until 9:00 o'clock tomorrow morning.

(Thereupon, at 4:50 o'clock, p.m., court was adjourned until 9:00 o'clock, a.m., February 21, 1964.)

End 36

REPORTER'S CERTIFICATE

I, Fred B. Downing, Official Court Reporter for the United States District Court, for the Eastern District of Tennessee, Southern Division, at Chattanooga, Tennessee hereby certify that Richard Smith and John E. Hamlin, court reporters, in accordance with stipulation of counsel for the parties filed in this case, recorded by machine shorthand the proceedings had in open court in the above styled case on February 20, 1964; and that said proceedings were reduced to typewriting under my supervision; and that the foregoing transcript is a true and correct transcript of the said proceedings to the best of my knowledge.

This the 20th day of February, 1964.

Fred B. Downing

Official Court Reporter

HOFFA

IN THE DISTRICT COURT OF THE UNITED STATES

EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff.	:	
	:	989
vs.	:	NO. 11,~~222~~
	:	
	:	
JAMES R. HOFFA, ET AL,	:	
	:	
Defendants.	:	

Date: February 14, 1964

Chattanooga, Tennessee

Before: Honorable Frank W. Wilson, Judge

OFFICIAL TRANSCRIPT OF PROCEEDINGS

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TRIAL EXHIBITS

NUMBER	DESCRIPTION	For Ident.	In Evidence
149, Govt.	2 pages of 272 and 273 of Nashville trial	5141	
150, Govt.	Signed statement of Carl Edward Fields	5212	
151, Govt.	Interview report form, Carl EdwardFields	5212	
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153, Govt.	Sealed Sheets statement	5240	
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TWENTIETH DAY OF TRIAL

9:00 O'Clock A.M.
February 14, 1964

(Thereupon, pursuant to adjournment from February 13, 1964, court was in session.)

(The jury of twelve and four alternates remained excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

MR. SILETS: Good morning, your Honor.

THE COURT: Yes, Mr. Silets.

MR. SILETS: Your Honor, after the courtesy the Court gave us in chambers last night to discuss the matter of these seven or eight thousand records that the government has turned over to the custody of the Clerk for our view and with the Court's help in trying to reach some understanding how to operate and examine those documents, we spoke to Mr. Durkin this morning. Those files apparently are not much help in terms of being keyed together.

The best I can personally understand of the situation is that if we were to look for a particular call or to try to analyze the bills of a particular telephone number, we would have to search through each of those six or seven thousand cards to try to match it up to the particular charge on the telephone record to ascertain to whom the call was made and when and what the calling number was and so forth.

There is no shortcut method by which we can apparently analyze these cards.

Now, it is my understanding that the government has in fact analyzed each and every one of these six, seven, or eight thousand pieces of documents. I assume then they have been able to break out each of those cards and analyze them in terms of who made the calls, when, and from what calling number and so on.

If we had access to that breakdown, we, of course, would shorten any examination of those records by weeks. Without that kind of a breakdown I am afraid we are at a loss, even if we were to call on twenty people, experts from the phone company, and we are advised that it takes one man, I think, five or six minutes per card to analyze and to transcribe, that means out of six or seven thousand cards, even with twenty men working full time, it would take a number of weeks to analyze them.

Now, I would like to ask this, we would like to be able to have the assistance of the analysis made by the government of these records or, in the alternative and/or we would like to have an adjournment of the case for a period of time which would be reasonable and sufficient for us to analyze the records.

Now, as I say, from the face of it and from our determination by speaking to representatives of the American

Telephone and Telegraph Company, that such an analysis would take several weeks at a minimum with a great staff of people working full time. Short of that I don't know how we can intelligently examine the documents and use them for the purpose of defense and in the spirit the Court has directed that they be turned over to us.

THE COURT: All right. Well, gentlemen, there will not be an adjournment of the case. You will be permitted to put on any evidence with regard to those records in any order that you may see fit. The Court will not attempt to limit you to any particular order in that respect.

MR. NEAL: In that regard, your Honor, I might state for the record I have been told this morning by Jim Durkin that he has demonstrated to defense counsel that he can tell them in what particular box certain records are in. I understand he has undertaken to do this. Then all they have to do is look through that particular box.

Now, is that not the fact?

MR. SILETS: It is not my understanding, Mr. Neal. Your Honor, my understanding is that, for example, the records of the Andrew Jackson Hotel may be in three or four boxes and they may themselves alone be four or five thousand cards and if we were looking and saw a particular entry on a bill that might be interesting and we would want to ascertain who made the call we would still have to look through three

1-4

or four thousand cards.

THE COURT: All right. Gentlemen, the Court has again overnight checked very carefully its notes and there is what appears an error in the record at page 4652, line 11. The word used by the witness is "dissent" (spelling) d-i-s-s-e-n-t and not the word "Senate."

The record will be corrected accordingly.

Now, then, gentlemen, yesterday there were approximately 20 pages of testimony and approximately 200 pages of argument. That argument was pertinent in some respects, in other respects it was highly repetitive.

Now, the Court cannot be prevented from functioning by these highly repetitive and wordy legal arguments. The Court appreciates legal arguments when they are to the point and they are very helpful to the Court, but if the attorneys cannot limit themselves to reasonable statements and to pointed statements as to their position, the Court is just going to have to set some time limit upon arguments.

End 1
2 fls

Yesterday more time was spent on arguing about the testimony of one witness than would be allowed in any appellate court on the entire lawsuit. And as I say, I appreciate the argument. It is helpful to the Court. But it should be to the point and it should not be these highly repetitive statements of matters.

MR. GRADY: Your Honor, may I make a statement for the record?

THE COURT: Yes, Mr. Grady.

MR. GRADY: In the form of a motion relating to these records, if Your Honor will recall and I think the record will bear me out, the government produced certain telephone calls which the witness for the government stated were taken out of a number of calls which we asked for, of course.

And the object of this testimony was to show that this man Partin had contacted Tweel by telephone or support his statement relative to so-called jury tampering. Now we have information available to us that certain calls were made between Partin and Tweel after the termination of the trial.

And, of course, those by no stretch of the imagination could possibly be connected with any jury tampering after the end of the trial. And we ask the Court to direct the government as we did, not having those records available to us, and they evidently weren't going to make

them available, to have the government present all of the calls in December. The Court refused this request on the part of Tweel.

We are now faced with a situation of having some 6,000 records over there as Mr. Silets has said, and we are denied the privilege and the right of producing all of the evidence to show that the insinuation or the conclusion that the government is asking the jury to draw from the limited phone calls could not possible be correct or true.

In fact, they would support Mr. Tweel's testimony when he takes the stand, that these calls did not in any way concern such things. We feel that that is so absolutely prejudicial and we feel we have laid every groundwork and ask the Court for a release.

We would like to renew our motion for severance and or mistrial on that basis.

THE COURT: All right. Allow that motion to be overruled.

MR. NEAL: Let the record show, Your Honor, that all telephone records of the government are available to the defendants, including the Defendant Tweel.

MR. BRANSTETTER: May it please the Court.

THE COURT: Yes, Mr. Branstetter.

MR. BRANSTETTER: May it please the Court, on yesterday the matter of records about terminated, I think the

availability of the records has been merely that they have been delivered to the Court here and because of the method of jumbling them that they are totally unusable unless the time is permitted to go into them. I don't want to further discuss that point because I was not in the meeting yesterday afternoon.

Yesterday afternoon the Court inquired whether any defense counsel would like to cross examine or examine further Mr. Sheridan and Mr. Sheets with reference to certain matters dealing with Jencks statements and we were to notify the Court by five-thirty on yesterday afternoon.

Because of the mix up in the record situation and the time spent on it we were unable to contact the Court by that time but this morning we would like a very short opportunity to examine these two witnesses further.

I think it will be very short.

THE COURT: Well, gentlemen, the Court stayed here until six o'clock last night and the reason I asked you to notify me was so we wouldn't have to bring the jury over here and have the jury waiting this morning while we do this.

MR. HUTCHESON: If Your Honor please, yesterday I accepted service of two subpoenaes.

THE COURT: Just a moment, Mr. Hutcheson, does this relate to the matter that I'm discussing with Mr. Branstetter?

MR. HUTCHESON: No, I was not aware that Your Honor was still considering that matter.

THE COURT: Yes. How many counsel wish to examine?

MR. BRANSTETTER: I would think just one, probably two maybe.

THE COURT: I beg your pardon?

MR. SCHIFFER: I find I must examine the entire load of exhibits put in by the government because, Your Honor, we have been deprived effectively of seeing evidence--

THE COURT: (Interposing) Well, I'm asking now, Mr. Schiffer, about how many examinations of Mr. Sheridan and Mr. Sheets.

MR. SCHIFFER: I beg your pardon.

THE COURT: Yes, Mr. Silets.

MR. SILETS: I was going to examine him. I think Mr. Schiffer is.

MR. SCHIFFER: Three of us, Judge.

MR. BRANSTETTER: If there would be a more appropriate time later on today, we are not insisting on it now. It might be a more appropriate time.

THE COURT: All right, we'll take it up later.

MR. HAGGERTY: At this time, may I address the Court?

THE COURT: Yes,Mr. Haggerty.

MR. HAGGERTY: At this time, may it please the

Court, I ask that the government produce all tape recordings that they have made of telephone messages, tape recordings that they made in Baton Rouge, and the memoranda and records connected with particularly the tape recordings taken on the 18th of October, 1962 by William Daniels and interception of a telephone call. That was in the possession of one Sergeant Pitcher, District Attorney for the Nineteenth Judicial District for the State of Louisiana.

Also, may it please the Court, a tape recording made by Mr. Grimsley or other government agents and that man is identified as Peter Duffy, I believe he is with the FBI, of a tape recording of the conversation between Partin, Mr. Grimsley, Pitcher, in which it was alleged there were two government agents present and also William Daniels.

I ask that they produce those forthwith.

THE COURT: All right, what does the government have to say in response?

MR. NEAL: Your Honor, under what authority they are asking us to produce those, Your Honor. What authority do they have to call on us for anything like that?

MR. SILETS: Section 3500.

MR. NEAL: Cite the rule.

MR. SILETS: Section 3500 of Title 18. It is a substantially verbatim transcript of a conversation to which the witness had testified to.

MR. NEAL: Then, Your Honor, we certainly, we certainly decline under Section 3500 a recorded conversation between the Defendant Hoffa and the witness Partin is certainly not 3500 statement. It is not a statement made by a witness to an agent of the government.

THE COURT: File a written response to that.

MR. NEAL: We'll file a written response, Your Honor.

MR. SILETS: Your Honor, in the light of the circumstances I would like to have the opportunity to examine Mr. Grimsley to ascertain whether he took any notes of Mr. Partin's conversation or someone under his jurisdiction or authority.

Mad 2

Tk 3 fol.

THE COURT: Overrule that request at this time. All right. Are we ready to proceed? If so--

MR. HAGGERTY: (Interposing) There is a matter of the transcript, your Honor, on Page 5034, Line 12. It reads, "Now, on the conspiracy hearing there is no testimony. That is, "On the conspiracy theory there is no testimony."

THE COURT: All right. Without objection that will be made.

MR. NEAL: What page, I didn't get that?

THE COURT: At Page 5034. This is Mr. Haggerty's statement to the Court in argument. Without objection that correction will be made in the record.

MR. HAGGERTY: In addition, may I address the Court?

THE COURT: Yes, sir.

MR. HAGGERTY: In addition, may it please the Court, in reference to the issue of surveillance, at this time I wish to file with the Court a series of affidavits. I will serve the government. I am filing, may it please the Court, the affidavits of Charles L. O'Brien, Daniel B. Maher, William Bufalino and Bernard Spindel.

I have now served the government and I file with the Court those affidavits on the issue of surveillance and move the Court forthwith for immediate hearing.

MR. NEAL: Now, may it please the Court, since

the name Daniel Maher has been brought up again, do I understand, does defense counsel know that he is still on the stand and he should be looking for that instance or those several instances in which I objected to the Test Fleet case before the question was asked, he was going to respond and I specifically told defense counsel that he was not off of cross examination until he responded in some manner.

THE COURT: Well, the Court understands--

MR. NEAL: (Interposing) Still waiting for that, Mr. Haggerty.

MR. HAGGERTY: Mr. Maher will respond with the Court's permission at 1:30 today.

THE COURT: I understood that he was going to respond, if he had any response, by noon the day before yesterday.

MR. HAGGERTY: Well, there were other matters that came up, your Honor. I had him sitting here an hour and a half while we were engaged in other matters, but he will be here at 1:30 o'clock today.

THE COURT: All right. Allow the affidavits to be filed as further exhibits to the defendants' motion in regard to surveillance. The Court will allow a hearing upon that motion at the time heretofore indicated that the Court would conduct such a hearing.

MR. HUTCHESON: If your Honor please--

MR. HAGGERTY: (Interposing) On the question of dereliction, Mr. Neal stated to the Court that he would file a response to the principal motion and the supplements and amendments thereto on the issue of surveillance. As yet we have not received it.

May the Court inquire of Mr. Neal when he intends to file such a response?

THE COURT: Well.

MR. HAGGERTY: He promised to, as I understood it, that it would be filed the day before yesterday.

THE COURT: This is a matter that we will not have a hearing upon until after we have proceeded.

MR. HAGGERTY: Well, I--

THE COURT: (Interposing) This is a matter that you may take up directly with counsel, Mr. Haggerty, it is not a matter that is appropriate for the Court to pass upon at this time because I do not propose to interrupt the trial of this case at this time to conduct a hearing on that collateral issue.

MR. HAGGERTY: I must take the position, your Honor, when a representative of the government and opposing party in the case undertakes openly in court and represents that they will do a certain thing that it should be done.

MR. NEAL: It will be done.

MR. HAGGERTY: When?

MR. NEAL: Today or Monday. We would have filed it yesterday but it wasn't quite ready. We wanted to be specific and not make these general allegations about, "I saw somebody behind a tree 600 paces to the rear."

MR. SCHIFFER: Very interesting, that very party was Mr. Neal behind that tree.

THE COURT: All right. Now, Mr. Hutcheson.

MR. HUTCHESON: If your Honor please, I don't want to take up the Court's time but it may be that you would rather have me come back at another time.

I have a petition to modify subpoenas which were served upon me yesterday on behalf of my client, Donice Bennett.

THE COURT: Well, let's take that matter up, let's take that matter up at twelve o'clock and we will see at that time just when to set it for hearing, I would rather hear it either at that time or at 4:30 this evening.

MR. HUTCHESON: I shall be here at twelve o'clock.

THE COURT: May we have the jury now and have the next witness called?

(Thereupon, the jury of 12 and 4 alternates returned into open court and the following further proceedings were had, to-wit:)

THE COURT: Good morning.

MR. DALE: Raise your right hand, please. Do you

solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. GASDOR: I do.

MR. DALE: Have a seat.

ALBERT J. GASDOR,

a witness called at the instance of the United States of America, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. NEAL:

Q Would you give us your full name, please, sir?

A Albert J. Gasdor.

Q Albert J. Gasdor?

A That's correct.

Q Where do you live, Mr. Gasdor?

A Washington, D. C.

Q By whom are you employed?

A The Alderson Reporting Company.

Q Is that a company that, like Mr. Smith here, who transcribes what is said in court, among other places?

A Yes, it is.

Q Now, were you the court reporter for a trial in Nashville in the fall of 1962 known as the Hoffa trial?

A Yes, I was.

Q Who was on trial there?
A Mr. James R. Hoffa.
Q Is he in the courtroom now?
A Yes.
Q Do you recognize him?
A Yes, I do.
Q Point him out, please.
A Beg your pardon?
Q Would you point him out, please?
A Sitting there at the end of counsel table with the glasses in his hand.
Q All right, sir. Now, look at this calendar over here to refresh your recollection. The testimony has been that the trial, the Hoffa trial in Nashville, started on October 22nd, that's a Monday?
A Yes, I recall it.
Q Were you present in a hearing in the chambers of Judge Miller on October the--the morning of October the 24th?
A Yes, I was.
Q That was--would you tell us who was present at that time, sir?
A Judge Miller, you, Mr. Neal, Mr. Charles Shaffer.
MR. BRANSTETTER: May it please the Court--
Q (Interposing) That's another government attorney?

MR. BRANSTETTER: May it please the Court, I think that government counsel is now seeking to inject into the record exactly what the Court previously ruled was not admissible under any theory and we think it would be very unfair to permit them to do what they did yesterday and the Court held was improper and we think they are speaking to accomplish this same purpose by this method and we would at least request of the Court that this matter be taken up at the present time or that government counsel be admonished and told that they will be violating orders of this Court if he proceeds any further into matters that the Court has instructed him not to go into.

F... Tk 3
Tk 4 fls.

THE COURT: Overrule the objection.

MR. HAGGERTY: May it please the Court, at this time I move the Court that the government before proceeding any further with this witness make an offer of proof in the absence of the jury because we are now getting into an area where to say the least it is dangerous.

THE COURT: Well --

MR. NEAL: (Interposing) I think, your Honor knows what we are going into.

THE COURT: Overrule the objection at this time. We are not --

MR. NEAL: (Interposing) All right, sir.

BY MR. NEAL:

Q You said I was present in the chambers hearing with Judge Miller. Judge Miller was the judge presiding as Judge Wilson is now over the Hoffa case?

A Yes, he was.

Q I was there and Mr. Shaffer was there, was he, another government attorney?

A Yes, he was.

Q Who else was there?

A Mr. James Durkin, also a government attorney. The defendant, Mr. Hoffa.

Q Mr. Hoffa was present?

A Yes. Mr. Haggerty. Mr. Maher.

Q Daniel Maher?
A (Spelling) M-a-h-e-r.
Q Mr. Haggerty here?
A Yes.
Q Mr. Maher, was he a defense attorney?
A He appeared for the defense. I don't know what his exact title was as far as the defense is concerned.
Q He appeared for the defense. All right, who else?
A Mr. Bufalino.
Q Mr. Bufalino, what was his capacity?
A I guess one of Mr. Hoffa's counsel.
Q Well, did you see him acting as one of Mr. Hoffa's counsel in the trial?
A Yes, sir.
Q Pardon me?
A Yes.
Q You don't have to guess?
A No.
Q Okay, who else? Was a Mr. Osborn present?
A Yes, sir. Mr. Osborn.

MR. SCHIFFER: Objected to, your Honor, leading.

THE COURT: Overruled.

BY MR. NEAL:

Q Was he acting as one of Mr. Hoffa's counsel?
A Yes.

Q Were you present?
A Yes.
Q All right, is that it?
A Yes, I believe it was.
Q I assume Judge Miller was present?
A Yes.
A Yes.
Q Now, at that time did Judge Miller call something to the attention of counsel?
A Yes, he did.
Q Did you make a transcription of what was said at that time?
A Yes, I did.
Q Did you type it up?
A Not me personally. People who are assisting me typed it up.
Q Now, sir, have you compared that transcription with your original notes you took on the machine?
A Yes, I have.
Q And is the transcription you are about to hand me accurate?
A Yes, it is.
Q And compares with your notes?
A Yes.

MR. NEAL: Let the record show I am taking out two pages out of a transcript, taking two pages, pages 272 and

273 out of a transcript entitled United States of America versus James R. Hoffa and Commercial Carriers, Incorporated, Defendants. Criminal Number 13,241, United States District Court for the Middle District of Tennessee, Nashville Division, date, October 24, 1962. On the cover, blue cover on the official cover of Alderson Reporting Company. Would you mark that, please, Mr. Dale?

THE CLERK: No. 149, your Honor.

(The two pages referred to above were marked for identification as Exhibit No. 149.)

MR. SCHIFFER: Your Honor, for the record, are all objections made for all defendants?

THE COURT: Yes, sir.

MR. SCHIFFER: Thank you.

BY MR. NEAL:

Q Now, Mr. Gasdor, handing you Government's Exhibit No. 149, specifically, have you compared those two pages with the original notes taken of the conference in Judge Miller's chambers you have just related?

A Yes, I have.

Q And is that an accurate transcription of the conference up to the point the pages indicate as far as it goes?

A It is and in my comparison I changed and initialed one word in here which was mis-transcribed.

Q Have you changed that word that was mis-transcribed to comport with your original notes?

A Yes.

Q And you have initialed that?

A Yes.

Q So that now with that correction that is an accurate transcription of the meeting in chambers up to the point it goes?

A Yes, it is.

MR. NEAL: Your Honor, we want to offer this in evidence and read it to the jury.

MR. BERKE: Your Honor, please, I haven't seen it, your Honor.

MR. NEAL: I'm sorry.

MR. HAGGERTY: May it please the Court, I object on behalf of the Defendant Hoffa. First, because it is hearsay to the third degree.

Second, that it is incompetent, irrelevant, immaterial, to any issues in this case and has no force or probative value.

MR. SILETS: On behalf of Defendant Dorfman, I adopt that and add one other objection, there is no evidence to show that the Defendant Dorfman or any other defendant was present and could not be admissible against any other defendant at all.

MR. SCHIFFER: Adopt both motions on behalf of Mr. Parks, your Honor.

THE COURT: All right. May I see the exhibit, please?

MR. BERKE: That is what I started to say, sir, I believe if the Court would look at this the Court would see that this is rank hearsay by someone else. The mere fact that the defendant was present in a court proceeding which he is required to be present does not make it admissible.

MR. NEAL: Your Honor, I understood that we had gone over this yesterday.

THE COURT: Well, just a minute. Let me see it. All right, gentlemen, let's be in recess. Ladies and gentlemen of the jury, you may step out for a few moments. We will be in recess for about five minutes for the Court to consider this.

(Thereupon, the jury of twelve and four alternates were excluded from the courtroom and court was in recess at 9:35 o'clock, a.m.)

End 4
5 fls

MR. BERKE: If Your Honor please, at this time we have a motion to dismiss the indictment, a very short motion, it reads as follows:

"And now comes the Defendant, James R. Hoffa, by his counsel, and moves that the indictment in the above matter be dismissed since evidence was secured by interceptions and divulgences of telephone recordings between James R. Hoffa and other persons, of which recordings and notes of said conversations and recordings wereused by the government in this case contrary to law. Defendant James R. Hoffa demands an immediate hearing on this motion."

The Court will recall that previously all the testimony has been, both through Mr. Partin and Mr. Sheridan, statements by counsel, that there have been no recordings, no interception of telephone messages, even in the argument on survillance the government has assured counsel that no telephone interceptions, no tape recordings of phone conversations were made, yet now at the present time when demand is made on the government for such telephone conversations the government counsel, in spite of everything to the contrary and in spite of the testimony that appears now to be perjured on this point, says that they will not turn over such telephone conversations, that there is no legal basis for turning over such telephone conversations to us and since this is an illegal matter, since it goes to the heart of the

defense in this case, we are demanding an immediate hearing on this motion. We think we are entitled to it.

The very idea of a Court sitting up here now and listening to all this perjury, statements by counsel that there have been no such recording devices and then at the same time coming up here in a court of justice and saying, "Now, we are not going to turn over those telephone conversations or those tape recordings of the telephone conversations to the defendant. He is not entitled to them."

Now, at some point it certainly should tax the Court's patience to hear things like that going on, something that is strictly illegal. Here the government witness says there have been no tape recordings. Now, we have just learned about this. Now, we have offered to prove it.

The very idea of being lulled into some sense of security that there is no such thing going on there or it hasn't been going on and now it comes to light by admission of government counsel that they have such recordings. We think that the Court, in the inherent power that it has to see that justice is done, not to see that parties get advantage over another, this court has to protect the defendants' rights just as much as it does the government's rights.

Now, how can a court blatantly sit back and say, "Look at this perjured testimony. Am I going to do nothing

about it?" Here is Partin and Sheridan, government counsel, all of them say there are no tape recordings, no interception of telephone messages. Now, again in the same court they come in and say, "Well, yes, there are but we are not going to produce them. You are not going to make us produce them."

Now, we think is of such vital importance that we are certainly--, I think this certainly should stir the ire of the Court if anything should, if anything in this case has been a blatant hiding of facts, we have asked under the Jencks rule, we have asked for all of these items, which a tape recording would be an identical conversation of whatever it is with this defendant.

They say, "We have turned over everything that would apply under the Jencks act." They say, "There are no telephone conversations."

We think certainly the Court can't sit idly by and let something like this just continue and we file this motion. We would like for the Court to give us an immediate hearing on it.

End 5
Tk 6 fol.

MR. NEAL: Now, your Honor, Mr. Berke has said without any citation that we have said there were no recordings. I would like for him to point out where government counsel has said there are no recordings.

MR. SCHIFFER: Well, your Honor--

MR. NEAL: (Interposing) Point to the record.

THE COURT: Gentlemen, the government will file a response to this motion. File a written response to it on Monday. And let's proceed.

MR. BERKE: If your Honor please, and he asked, and I'm willing to give a statement here where his own witness here, Partin, on the record on Page 3006-A, did he give you any device or listening instrument to assist you in your work? No, sir.

MR. NEAL: Is that a statement there are no recordings?

THE COURT: Gentlemen, I have heard the motion and I have instructed the government to file a response to it on Monday. Let's proceed with the trial.

MR. SCHIFFER: Your Honor, may I at this moment just draw the Court's attention, if I may, that I believe it was during the month of July last year that we appeared before Judge Gray with many, many motions. Now, I filed a motion and asked the government to turn over to the Court and defense all such recordings and to state for the record

information concerning wire tap information.

Now, the government stood up in open court, U. S. District Court, before Judge Gray in Nashville and warranted to the Court that such things had not happened. And they further warranted to the Court that it did not exist. Judge Gray accepted in good faith what government counsel had committed to the Court that that had not occurred and I say to your Honor if your Honor will refer to the file of those motions and see the government's responses, they then unequivocally in view of today's motion made by Mr. Haggerty and Mr. Berke, they have unequivocally lied to this Court.

Now, all I can say to your Honor is this, we want due process. If in fact the government has violated the law and it is a crime by federal statute, then your Honor should, I believe, and I suggest to your Honor, take immediate action not alone to produce before this Court the evidence which will sustain their charge, but to hold Mr. Neal and everyone who assisted him in contempt of this Court.

Now, we cannot go on with this travesty of justice, your Honor. I am trying to defend Mr. Parks. I am trying to do it within the rulings laid down by the Supreme Court, the upper courts, the administrative courts, and, of course, the rules of our local district courts.

There is no other way I can present his defenses. Now, your Honor, we come to a very vital point in this case

because it would be a waste of time, it would mean nothing to continue with this case because the government did wire tap and make a recording and had a witness take the stand and lie about it knowingly, let him lie to it and not inform the Court that he is lying about it.

Your Honor, what kind of justice is it and how is it now spelled under the administration of Robert Kennedy, and I say to your Honor that despite the fact that the government represented here by the particular individuals who represent the government, and Mr. Parks' rights have to be protected and I can only implore your Honor that inasmuch as what they warranted to the Court turned out not to be true, that we be given an immediate hearing and prevent this travesty from continuing.

MR. NEAL: May it please the Court, I don't want to prolong this thing, but I want to make a reply.

THE COURT: Mr. Neal, let's proceed with the trial. You will have an opportunity to file a response. We will take that matter up at the appropriate time.

MR. NEAL: May I say one thing, your Honor, it is very difficult to sit over here and be accused of everything by this man right here. I ask your Honor's protection from someone like that. The government counsel are entitled to it. Now, if he can find one place in the record where we have put on, he has accused us of lying, he accuses us of

putting on subornative perjury--

THE COURT: (Interposing) You see, Mr. Neal, if ycu proceed with that reply, Mr. Schiffer is going to stand up and he is going to want to proceed with it and he wants to have the last word and we are going to carry on this sort of bickering back and forth on some collateral matter, never get down to the trial of this case. This is one of the matters I said yesterday, I appreciate the fact you want to respond and should have the right to respond .

MR. NEAL: Your Honor, I am a Tennessean. I am not used to being called a liar and subornator of perjury. This man has been doing it. I ask to have him point out--

MR. SCHIFFER: (Interposing) The Court will refer to the file, we have the proof filed in the Court right here. You signed it, Mr. Neal, I ask the Court to go back to my remarks before Judge Gray, where he said--where he referred to it and I say it did happen.

THE COURT: Gentlemen, these are matters that we can take up after the case has been tried and the Court will expect to take up some matters after the case has been tried.

MR. BERKE: Your Honor, this is not in the surveillance motion. This is a separate motion dealing with wire tapping and recording.

THE COURT: Yes, sir, I understand your motion.

MR. BERKE: Does the Court now hold that it will

do that after the charge to the jury?

THE COURT: I have held nothing except that the government would file a response to it by Monday. We will consider it further at that time.

At this time let's proceed with this trial. Shouldn't this Court have some authority to proceed with a trial and to limit to some extent this enormous argument in the case upon matters that are collateral to the issues in the case? And I am going to rule at this time that we proceed with this trial.

MR. SCHIFFER: Your Honor, may I say for the record--

MR. BRANSTETTER: (Interposing) Your Honor, may I join in the motion?

THE COURT: Yes, you may join in the motion.

End Tk 6
Tk 7 fls.

MR. SCHIFFER: Your Honor, on behalf of Mr. Parks may I say that we take the position most respectfully it is not a collateral matter.

THE COURT: All right. Mr. Schiffer, I have ruled, please. I will hear you at noon on this matter if you wish to argue, I will hear you from noon until 1:30.

MR. SCHIFFER: Thank you very much, Judge.

(Thereupon, the jury of twelve and four alternates returned into open court.)

THE COURT: All right, gentlemen. The Court will overrule the defendants' objections to Exhibit No. 149, allowing Exhibit 149 to be filed in the record for identification purposes and will allow the exhibit to be read into the record down to or through line 11 on page 273 of the exhibit.

MR. NEAL: Will you mark that, your Honor, so I don't go beyond that?

THE COURT: I will draw a line and initial the line. Now, then, ladies and gentlemen, with regard to this exhibit No. 149 to the extent that it may be read into the record, it may be considered by you only as it may or may not tend to corroborate the testimony of the Witness Partin as to any alleged statements made to him by the Defendant Mr. Hoffa. It would be considered for this purpose only and it may not be considered as to any other defendant in this case for any purpose. It will not be considered by you upon the

issue of the truth or falsity of any statements made therein, but, as I have stated, it may be considered only on the issue as to whether it may or may not tend to corroborate the Witness Partin as to any alleged statements made to him by the Defendant Mr. Hoffa. It will not be considered by you as to any other defendant in this case for any purpose whatsoever.

BY MR. NEAL:

Q To put this in prospective, this what I am going to read are the parts of the conversation in chambers before Judge Miller on the morning of October 24th, 1962, is that correct?

A That is correct.

Q And that was before court commenced for the day?

A Yes.

Q And this was in the Defendant Hoffa's presence?

A Yes.

MR. BERKE: If your Honor please, that wouldn't be material, if your Honor please.

THE COURT: Yes, sustained. Sustain the objection.

MR. NEAL: "Third Day, October 24, 1962.

"Pursuant to adjournment from October 23, 1962, a pretrial conference was held in chambers at 9:00 o'clock, a.m., at which the following persons were present: Osborn,

Haggerty, Bufalino, Hoffa, Maher, Neal, Shaffer, and Harwell.

"THE COURT:" Speaking, "I called you in here to report information which came to me just this morning, just as I came to the office.

"Juror No. 7, I believe, Mr. Tippens -- is that his name?"

And Mr. Osborn says, "Mr. Tippens would be No. 12."

Mr. Haggerty says, "C. F. Duncan is No. 7."

The Court speaking, "Then it would be No. 12, seated on the far end."

Attorney Osborn says, "That would be Tippens."

Then the Court speaking, "He said after he left court yesterday he went to his office, and a person whom he has known for a long time, a next-door neighbor of his, and apparently a person with whom he has had some business dealings, as well as some social contacts, approached him, and told him that he would like for him to go out in the car, that he wanted to talk with him. He said he thought that was suspicious, but he went on out in the car with him, and this person said that he knew how he could pick up $10,000. Tippens said that he did not understand this, but thought he might be referring to the case.

"He said, 'If he has anything to do with this case, I cannot discuss it with you.'

"The person went ahead and said, 'Well, it will be an easy way to pick up $10,000, and it will be paid in $100 bills, that you could get it in $100 bills.'

"He said, 'You are referring to my being a prospective juror in the case.'

"The person said, 'Yes,' and he said, 'I cannot talk to you any further about it.'

"According to Tippens, as he told me this morning, that was the end of the conversation."

MR. SILETS: Your Honor, I move to strike the document and I move to strike the reading of it as it is highly prejudicial to all defendants in this case.

THE COURT: Overrule that motion.

MR. HAGGERTY: All parties have benefit of the motion?

THE COURT: Yes, sir.

MR. SCHIFFER: May I add to the motion we further move for a mistrial.

THE COURT: Overrule that motion.

MR. HOOKER: You may cross examine the witness.

THE COURT: Is there any cross examination?

MR. HAGGERTY: Just a moment. Let me consult Mr. Berke.

MR. BERKE: No questions.

THE COURT: No questions. All right. You may be

excused.

(Witness excused.)

THE COURT: Call your next witness.

MR. HOOKER: No questions. The government rests in chief, if your Honor please.

THE COURT: All right.

MR. SCHIFFER: Pardon me, your Honor, we will excuse Mr. Walker.

THE COURT: All right.

MARSHAL MANSFIELD: I didn't hear.

MR. NEAL: Excuse Mr. Walker.

MR. SCHIFFER: Has the government rested, your Honor?

MR. HOOKER: Yes.

THE COURT: Yes.

MR. SCHIFFER: The government rested.

May I have a second?

THE COURT: Yes.

MR. HAGGERTY: Your Honor, may we have a brief recess?

THE COURT: Yes, sir, take a 10-minute recess.

(Thereupon, a recess was had.)

End 7
8 fls

(After recess, the jury of 12 and 4 alternates being excluded from the courtroom, in their absence the following proceedings were had, to-wit:)

MR. SILETS: May it please the Court, my understanding is the government has indicated that they have rested. However, if the Court will recall, by the way, I might add, that we all of the defendants will be filing motions for judgment of acquittal and we want the court to specifically understand that.

But my understanding is also that the court has given leave to the defense or some of them or all if they see fit to cross examine certain of the government's witnesses as part of the government's case in chief. As well as the Court has reserved ruling on the question of whether on a hearing under Campbell versus United States, vis-a-vis Jencks statements, I may examine Mr. Sheridan and Mr. Sheets. And I believe I had also requested although I think the Court has denied my request to examine Mr. Grimsley to ascertain whether the statements made by Mr. Partin through the use of recording devices constitute statements within the meaning of Section 3500.

So what we would like to do right now, Your Honor, is as part of the government's case in chief, and without waiver of our motion for judgment of acquittal which we indicate to the Court we are going to file, to have leave

to cross examine these several witnesses whose examination was reserved.

THE COURT: All right.

MR. SCHIFFER: Pardon me, are these your papers?

MR. SILETS: Yes, sir.

MR. SCHIFFER: Your Honor, we will recall Mr. Walker for a few questions and then Mr. Fields for recross before the close of the government's case.

THE COURT: All right, do you wish to do that now?

MR. SCHIFFER: Yes, sir.

THE COURT: Let's have them recalled.

MR. NEAL: May it please the Court, before the jury comes in, I had just remembered with respect to the recordings, those were turned over to the Court I believe. I had forgotten and perhaps the Court had forgotten.

THE COURT: The Court hadn't forgotten anything.

MR. NEAL: Sorry, I had forgotten it. They had been turned over, had been ruled on by the Court. Turned over with all other matters for determination in connection with Jencks statements, and we will file a response. I had forgotten that we had turned them over.

MR. BERKE: Are you talking about the telephone recordings?

MR. NEAL: Yes, sir.

MR. BERKE: If Your Honor please, this is the

first we had heard of it and we certainly want to challenge that. I think the Court should state, I doubt that the Court has ever seen any telephone recordings.

THE COURT: All Jencks statements that were turned over to the Court were either made available to the defendants as the Court determined them to be available under the Jencks act or they were filed as sealed exhibits. And they are in the record. Everything that has been turned over to the Court is in the record. And has been made available by the Court to the extent that the Court deemed it to be available and has been sealed to the extent the Court determined it was not available.

MR. BERKE: We are challenging Mr. Neal's statement that the recordings have been filed with the Court. I understood the Court to say that you have not seen any telephone recordings.

THE COURT: I stated that everything that has been turned over to the Court has been made available to the defendants that was available in the Court's understanding of the law, everything that was not available has been sealed and is a sealed exhibit in the case.

MR. SILETS: May it please the Court, may I inquire so that the record may be clear what exhibit number contains the recording which that Mr. Grimsley made with Mr. Partin at this Holiday Inn, the recording we are talking about?

Mr. Neal knows what recording that is, which taped telephone conversation, which recording of conversations in the hotel room were taped and submitted to the Court; I would like for the sake of clarifying the record that we know specifically the exhibit number.

THE COURT: Well, gentlemen, you will have to go back to the record and see what exhibits were sealed. The record will reflect what exhibits were sealed.

MR. BRANSTETTER: May it please the Court, also in order that the record will be very clear, it is not only under the Jencks act that these tapes were requested, they were requested to be furnished to counsel as having been matters or material that was obtained in an illegal method. And not just the Jencks statement. And that we should have an opportunity to establish that in the appropriate hearing and also to call Grimsley and others to determine whether or not all of them were turned over.

THE COURT: All right. May we have--

MR. BERKE: (Interposing) I think I would like to have the sealed Exhibit numbers if he will call them off to us.

THE COURT: Let's proceed with the examination of the witness and the jury and we will not take this up at this time. We will not hold the jury.

MR. BRANSTETTER: Could we have a specific

ruling by the Court that the government's case has not been rested at this point?

THE COURT: I'm going to permit you, yes, sir, to cross examine the witnesses as Mr. Schiffer has indicated.

End 8

Tk 9 fol.

MR. SCHIFFER: We would like to call Mr. Walker at this time, your Honor.

THE COURT: All right.

(Thereupon, the jury of 12 and 4 alternates returned into open court and the following further proceedings were had, to-wit:)

JAMES T. WALKER,

a witness called at the instance of the United States of America, having been previously duly sworn, was recalled and testified further as follows:

THE COURT: Mr. Walker, you were sworn on your first appearance?

THE WITNESS: Yes, sir.

THE COURT: Gentlemen, do you recall the date upon which this witness--

MR. SCHIFFER: (Interposing) The 27th and '8th, I believe it is, your Honor.

MR. NEAL: Cross examination starts at Page 1602, your Honor, of the transcript, it was on the 28th, January the 28th.

THE COURT: Just a moment until I find my place in my notes, Mr. Schiffer. All right.

FURTHER RECROSS EXAMINATION

BY MR. SCHIFFER:

Q Witness, do you recollect your testimony in this

case on your last appearance on the witness stand?

A (Witness moves head up and down.)

Q Now, will you state for the benefit of the Court and the jury isn't it a fact that you initiated the call, the first call to Fields to come to see you, Carl Fields?

A That I initiated it?

Q Yes. You made a call to Carl Fields to come to see you?

A Yes.

Q And when he came to see you was there an occasion when you met with him at your printing shop?

A After he came to see me?

Q Yes.

A He came that afternoon to my printing shop.

Q To your printing shop?

A Yes, sir.

Q And how many people were present when he came into your shop?

A I don't recall how many, quite a few.

Q Quite a few. Could you give us the names of those other parties or persons who were present when Carl Fields came into your printing shop?

A I believe that there was Thomas Stegall.

Q Would you spell that, please?

A (Spelling) S-t-e-g-a-l-l.

Q (Spelling) S-t-e-g-a-l-l?

A Yes; Knewty Jones.

Q Jones?

A Yes. There were several others that came in a little later but there were quite a few, we were having a meeting at the time.

Q Now, was one of those parties who was there, one of these persons who were there, was one of them Fred Shobe?

A I don't know Fred Shobe.

Q Fred Scott?

A I don't know Fred Scott.

Q Or any other name identifying the person working with the government on this case?

A No.

Q You state that unequivocally there was nobody in that shop at the time when Carl Fields came to your printing shop pursuant to your call for him to meet you there, you state unequivocally there was no government agent?

A That is correct, no government agent.

Q And you knew everybody who was there in the shop?

A Yes, I did.

Q Pardon me. Was any recording made by you or anybody else of the conversation in your shop, between you with anybody, Mr. Fields with anybody, or Mr. Parks with anybody?

A Not to my knowledge.

Q When you say not to your knowledge, can you tell us yes or no?

A No, as I know of.

Q The answer is no?

A No, I don't know of any recording made.

Q May I accept that answer as an unequivocal answer that there was none made?

A To my knowledge, no.

MR. NEAL: Your Honor, according to the testimony he wasn't with Carl Fields and the defendant out at the car.

MR. SCHIFFER: I am asking so far as his knowledge goes as to what he knows.

THE COURT: I believe he has answered. Proceed.

BY MR. SCHIFFER:

Q Do you have any record indicating who was present in your printing shop at the time you had Carl Fields come over there?

A No, I do not.

Q No record of any kind?

A No.

Q For the purpose of Mr. Carl Fields--had you not made a statement to him that there was a matter you wanted to see him about to have him come over to your place, that it concerned a matter in which both you and he could make a

lot of money?

A No.

Q You never made that statement?

A No.

Q Did you at any time tell Fields or ask him how he would like to make some money and that you knew a fellow who would pay two or three hundred dollars just to tell what Fields' father would be wearing when he went into court the next day?

A He and I discussed that but I did not tell him that.

Q You did not tell him that?

A No.

Q At no time did you have such a conversation with him?

A Not in that respect.

MR. SCHIFFER: Your witness.

MR. HOOKER: No questions for the government.

THE COURT: All right.

MR. SCHIFFER: No questions from the government?

MR. HOOKER: No, sir.

THE COURT: No questions from the government. You may be excused.

MR. HOOKER: Now, can the witness be excused now, if your Honor please?

THE COURT: Yes, sir.

(Witness excused.)

CARL EDWARD FIELDS,

a witness called at the instance of the United States of America, having been previously duly sworn, was recalled and testified further as follows:

THE COURT: Let's see, Mr. Fields, you testified once previously, did you not?

THE WITNESS: Yes, sir.

THE COURT: And you were sworn at that time?

THE WITNESS: Yes, sir.

THE COURT: All right. Have a seat, please.

FURTHER RECROSS EXAMINATION

BY MR. SCHIFFER:

Q Mr. Fields, at the time you went to the printing shop of Mr. Walker, do you recollect that?

A Yes, sir.

Q You had stated there were two other persons present when you came into the place?

A That's right.

Q Do you recall that?

A Yes, sir.

Q Will you identify them, please?

A I don't know them.

Q Were they introduced to you?

A Jack Walker introduced them to me but I done forgot their names, who they were.

Q Was one, calling upon your best recollection, was one of them named Fred Shobe?

A I don't know, sir.

End Tk 9
Tk 10 fls.

Q Fred Scott?

A I don't know.

Q He introduced them to you, did he indicate to you in any manner that they were law enforcement officers?

A No, sir.

Q Have you ever seen them since?

A I wouldn't know them if I seen them again.

MR. HOOKER: Never has said he seen them at all, if your Honor please. Not since. Said he didn't know them.

BY MR. SCHIFFER:

Q Have you ever been interviewed by other or both of these gentlemen since your first meeting with Mr. Walker concerning this case at his printing shop?

A Have I been interviewed by them?

Q Yes.

A No, I wouldn't know them if I seen them again.

Q Now you recollected you were interviewed by members of the Federal Bureau of Investigation concerning this case, is that not a fact?

A That's right.

Q And is it not a fact and I read from the April 1, 1963, Federal Bureau of Investigation report signed by Edward T. Steele and William L. Sheets. Do you recollect telling them: I entered the house and Walker talked to me in the hall. The rest of his family was in the back of the

house. We sat on a couch in the hall and talked about 30 minutes. He asked me --, I will repeat that --, he asked me if my father wasn't on the Hoffa jury. He asked how I would like to make some money. That he knew a fellow that would pay me $200 or $300 just to tell him what my father would be wearing when he went to court the next day.

Do you recollect telling that to members of the FBI?

A Yes, sir.

Q And that Walker made these statements to you?

A Yes, sir.

Q And you identified Walker as the person who made these statements to you?

A Yes, sir.

Q Did you see the man who just left the witness stand?

A Yes, sir.

Q Could you identify him?

A Jack Walker.

Q That is Walker?

A Yes, sir.

Q Patrolman Walker?

A Yes, sir.

Q He is the Walker you are referring to in your testimony now?

A That's right.

Q And further on, do you recollect stating to the members of the FBI in this same conference that you had with them: I told them I did not know what he would be wearing and further on stating, he said the fellow who wanted the information wanted to talk to me and that he, Walker, would take me to see this fellow or give me his address. He said it would not hurt me to talk to him. Do you recollect those statements?

A I told him that --, he asked me could I come and could I come to his shop.

Q Well, my question is directed to do you remember being asked about these --, you were making the statements to the FBI?

A He asked me could I come and --

Q (Interposing) Well, may I just try to simplify the question I'm reading now from an FBI report which I have identified and the two FBI officers are relating in their report what you told them. And as I read from it I stop and ask you do you recollect telling them that what appears in the FBI report?

A Would you read the report again?

Q Shall I read that part again?

A Yes.

Q I will. He said speaking here of Walker, he said

the fellow who wanted the information wanted to talk to me and that he, Walker, would take me to see this fellow or give me his address. Do you recollect that?

A Yes.

Q He said it would not hurt me to talk to him. I agreed to talk to the fellow and Walker told me he would call the fellow and tell him I would be at Twenty-Second and Osage about 7:00 p.m. after I had gone home to eat. Do you remember that?

A Yes, sir.

Q Walker said he had an office at that address where he does printing work and described the place as a little, white, brick block place?

A That's right.

Q He said the fellow would be there and the light would be on. Walker also said he would be there and that he would introduce me to the fellow. Walker asked me several times how close I was to my father. Walker never told me the name of the fellow who wanted to see me. Do you recollect those statements?

A Yes, sir.

Q Further on, I told no one where I was going. I arrived about 6:45 p.m. Walker and two other men were there. Walker introduced the two to me but I don't recall their names. Walker showed me around his office and his printing

equipment. Do you recollect that?

A Yes, sir.

Q About five minutes after my arrival a man came into the office and Walker introduced him to me as Tom Parks.

THE COURT: Sorry, someone coughed and I didn't hear that.

MR. SCHIFFER: I will repeat that, your Honor. About five minutes after my arrival a man came in the office and Walker introduced him to me as Tom Parks. I had never seen Parks before to my knowledge. Walker did not introduce Parks to the two other men. Do you recall making that statement?

THE WITNESS: Yes, sir.

BY MR. SCHIFFER:

Q May I repeat that and draw your specific attention to this statement that you just said you remembered. Walker did not introduce Parks to the other two men. Do you remember that?

A Yes, sir.

Q Now, with reference with your statements to the FBI concerning this matter which I read in its entirety today, that is all true, is it not?

A Yes, sir.

MR. SCHIFFER: Government may question.

MR. HOOKER: No question.

THE COURT: All right, you may be excused.

MR. HOOKER: This witness now, I understand, it is excused?

THE COURT: He is excused.

(Witness excused.)

THE COURT: All right, anything further?

MR. BERKE: Yes, your Honor, we would like to call for further cross examination Mr. Partin, if your Honor please.

MR. NEAL: Your Honor, Mr. Partin?

THE COURT: Overrule that request.

MR. BERKE: If your Honor please, my reasons may not be proper to state in the present situation, if your Honor please. We would like, of course, to have an opportunity to give the Court our reasons for it.

THE COURT: Well, I will give you the opportunity to give your reasons but is there anything further at this time? Now, do I understand --

MR. SILETS: (Interposing) Your Honor, the only remaining aspect is the inquiry concerning the production of the Jencks statements.

THE COURT: All right. Do I understand now the government has rested and in view of the statement of counsel, Mr. Silets --

MR. BERKE: (Interposing) Subject to what --

THE COURT: (Interposing) Yes. I presume that we may excuse the jury until 1:30. Ladies and gentlemen, we will have various matters that the Court must take up at this time, so we will excuse the jury until 1:30. Do not discuss the case in the meantime or at any time or allow anyone to talk with you about it, please. Be back at 1:30.

MR. BERKE: If your Honor please, is your Honor assuming what we have in mind will not be sustained by the Court? Excusing the jury?

THE COURT: Well, have the jury wait for a few moments, please.

(Thereupon, the jury of twelve and four alternates were excluded from the courtroom, and in their absence, the following proceedings were had, to-wit:)

End 10
11 fls

THE COURT: All right.

MR. BERKE: If Your Honor please, we would like to recall Mr. Partin because of the state of the record now with respect to a telephone conversation and also the wire tapping, which apparently now has been admitted by the government.

MR. NEAL: Now,the government has not admitted any wire tapping, never.

THE COURT: All right. Anything further?

MR. NEAL: I ask Mr. Berke to quote the record, cite the record.

THE COURT: Well.

MR. BERKE: Well, if Your Honor please, I would--

THE COURT: (Interposing) Is that the basis of your request for further cross examination?

MR. BERKE: Yes, Your Honor, and of course, we also want to go into that because if we are entitled to a wire tapping, either because we are entitled to wire tapping or because we are entitled to it as a Jencks statement, then, of course, that will be a further basis for further cross examination.

Now, Mr. Partin definitely stated that there was no wire tapping. Now, we, of course, have a right to assume, although we knew better, we have a right to assume he was telling the truth. We knew he wasn't but we certainly had a

right to state that when he says there was no wire tapping that there wasn't any wire tapping.

Now, we state categorically that there was wire tapping and, therefore, if we are entitled to it we are entitled to go into that question now. We certainly haven't been dilatory in it. The Court can literally see where we have been placed off guard by the testimony of Mr. Sheridan and also by the testimony of Mr. Partin and also by the statements of counsel.

THE COURT: All right. Well, overrule the request for further cross examination of the witness Partin.

MR. BERKE: And it is requested I read into the record Mr. Neal's statement, if Your Honor please, which statement was made apparently during the Nashville trial on record Page--

MR. NEAL: (Interposing) What volume?

MR. BERKE: Judge Gray, excuse me, I wasn't there. Page 70.

MR. NEAL: What volume, what page?

MR. BERKE: July 24th, Page 70. Here is the statement by Mr. Neal, "May it please the Court, the government represents that everyone knows what wire tapping is, and I am going to use that term, without getting into eavesdropping, monitoring, that sort of thing, I don't know what that means. I do represent to this Court that the contents of that

envelope contains no information obtained by wire tapping. Now, I think Your Honor is sufficiently definite--, I am making that representation knowing the contents and all they can do, as Your Honor says," and so forth.

MR. NEAL: May Mr. Berke go ahead and read on to say what that envelope was? It's the envelope handed to the judge pursuant to an order here, is that not right, Mr. Berke, is that not right?

MR. BERKE: What is that now?

MR. NEAL: Isn't it true I was speaking of the envelope that was a sealed document in the last case?

MR. BERKE: You can read anything in here. I wasn't there, I was just requested to read this much into the record.

MR. NEAL: Mr. Haggerty was there, ask him to relate to the Court what the contents of the envelope were.

MR. BERKE: When I'm addressing the Court is that proper for counsel, if he has any response, he can certainly read whatever portion he wants.

THE COURT: Mr. Berke, you have filed a motion in this respect. I will be glad to take the motion up at the appropriate time with regard to the further cross examination of the witness Partin; at this time the Court is of the opinion that that request should be denied.

MR. BERKE: Of course, I am sure the Court is

cognizant of the fact this matter has just now come to our attention, that it is nothing that we knew at the time Mr. Partin was on the witness stand. We want to be sure that the Court knows that that is a fact and that the Court is basing its ruling with knowledge of that fact.

THE COURT: Are there any other witnesses now to be examined before we excuse the jury?

MR. SILETS: Well, Your Honor, in the absence of the Jury, of course, I am awaiting the Court's decision on the inquiry of Mr. Sheridan and Mr. Sheets and renewing my motion to examine Mr. Grimsley.

THE COURT: Well, of course, those witnesses would have to be examined, in any event, in the absence of the jury.

MR. SILETS: Yes, sir.

THE COURT: It was a matter of excusing the jury for a term. I am asking if there are any other witnesses to be examined before the jury at this time? In the absence of any response the jury may be excused to report back at 1:30.

Now, then I will allow you to have--, is it Mr. Sheridan--, have Mr. Sheridan called.

MR. BROWN: If the Court please, during this interval, if I may, I would like to file an affidavit in support of the motion made by Mr. Silets for the dismissal of the indictment as to Mr. Hooker's part in representing some

of these defendants. If I may file that with the Court. I have supplied copies for the governmen't.

MR. NEAL: Your Honor, we move that that affidavit be stricken unless the Defendant King is prepared to take the stand and prove this is not a rank hearsay statement.

MR. BROWN: Well, Your Honor, it's sworn to, he doesn't have to take the stand, the affidavit is sworn.

THE COURT: Well, let it be filed. The Court will consider this matter further. Now, does this complete the filing of affidavits in regard to that motion?

MR. HOOKER: I want to say, if Your Honor please, that the statement in it that I knew anything about his case is untrue. I don't even know anything about his defense yet. I haven't heard anything about it up to now after a month and I will file an appropriate affidavit.

THE COURT: All right.

MR. ALEXANDER: If it please the Court, on behalf of--

THE COURT: (Interposing) I understand this completes the filing of affidavits by the defendants in regard to that motion.

MR. BROWN: I am sorry, I didn't hear the Court.

MR. SILETS: It does as far as the Defendant Dorfman is concerned.

THE COURT: All right.

MR. SILETS: But the inquiry--, I think perhaps some other defendant has an affidavit to file.

THE COURT: That is what I was asking them at this time. As I understand, this completes then on behalf of all defendants any affidavit, is that right? Have this filed with the clerk and made a part of an exhibit to that affidavit. We will take that motion up at the appropriate time.

Just a moment, Mr. Alexander. Let me make a note. All right. Mr. Alexander.

MR. ALEXANDER: I'd like to file a motion on behalf of the Defendant Tweel to strike certain evidence. We are adopting the motion previously filed by the defendant Hoffa to strike certain evidence.

MR. BROWN: Your Honor, on behalf of the Defendant--

MR. ALEXANDER: (Interposing) Wait just a minute. We will present that later, if it please Your Honor.

THE COURT: Beg your pardon?

MR. ALEXANDER: May we present that later?

THE COURT: The clerk advises me that on all of these motions that an error is being made in listing the docket number. The docket number is 11,989 and everyone is putting 11,898. The correct docket number of the case is 11,989, is that correct, Mr. Dale?

MR. DALE: The docket sheet was given to everyone

at the beginning of the trial and that is the number, 989, including the reporters.

THE COURT: Well, allow all documents that may have heretofore been filed be corrected so as to reflect the correct docket number.

Now, just have a seat, Mr. Sheridan, for a moment. No, have a seat here on the witness stand please.

End 11

Tk 12 fol.

WALTER J. SHERIDAN,

having been previously called as a witness at the instance of the defendants, and having previously been duly sworn, was recalled to the witness stand and testified further as follows:

FURTHER EXAMINATION

BY MR. SILETS:

Q Mr. Sheridan--

THE COURT: (Interposing) Just a moment. Be at your leisure. Just a moment. All right, Mr. Silets.

BY MR. SILETS:

Q Mr. Sheridan, I would like to ask some preliminary questions. I think I have forgotten what is your title.

A Special Consultant to the Department of Justice.

Q Would you speak up, sir, so that at least I can hear you?

A Sorry. Special Consultant to the Department of Justice.

Q As I recall your duties had something to do with the Criminal Division of the Department of Justice?

A Yes, sir.

Q And, as I recall, did you say what level your position was? Was it the same as an assistant attorney general?

A No, it wasn't. It is Special Consultant.

Q Is that an investigative position?

A That is a good question. There is investigation involved in what I do.

Q Sir, I didn't hear you.

A I say there is investigation involved in what I have been doing. But investigation is not solely what I've been doing.

Q But what do you mean by consultant, Mr. Sheridan?

A Well, I am not a lawyer. And I think the fact that I am not necessitated some kind of special title and that is why I am designated as I am, special consultant.

Q Yes, but I am trying to get at your special duties--

MR. NEAL: (Interposing) We object as being irrelevant to the purpose of the inquiry.

THE COURT: Sustain the objection.

BY MR. SILETS:

Q Very well, Mr. Sheridan, you had some duties with respect to the things and matters that were transpiring in 1962 in the months of October, November and December at Nashville; these are the case entitled United States vs. Hoffa and Commercial Carriers; you had some duties with respect to matters that were transpiring then?

A Yes.

Q What were they?

A Well, I was there mainly to assist in any way that I could in the presentation of the trial.

Q Assist whom?

A Mr. Neal, Mr. Shaffer.

Q You are not an attorney?

A Pardon me?

Q You are not an attorney?

A No, I am not.

Q Now, during those occasions that you were assiting Mr. Neal, did you furnish information to him?

A Yes, sir.

Q And what were the sources of your information?

MR. NEAL: Your Honor, is this the purpose of inquiry?

THE COURT: Sustain the objection. The inquiry is with regard to Jencks statements of the Witnesses Fields and Walker.

MR. SILETS: Your Honor, am I restricted to just that? Can't I inquire of the background of this man and his techniques and his efforts and manner in which he operates? I think that permits me to inquire so that I can lay the proper foundation for my questions.

THE COURT: Proceed.

BY MR. SILETS:

Q Now, during those months you interviewed or had

occasions to interview individuals that have testified in this case?

A During October, November and December I had conversations with Mr. Partin, who has testified in this case.

Q Is that the only witness that you testified-- that you interviewed in those months with respect to this case?

A Do you mean witnesses who have testified in this case?

Q Yes, sir.

A As far as I can recall, yes.

Q Now, specifically, you have interviewed the Witnesses Walker and Fields, have you not?

A Yes, sir.

Q Now, on those occasions when you interviewed Mr. Walker or Mr. Fields, did you use any mechanical device to record their conversations?

A No--

Q (Interposing) With you?

A No, sir.

Q Have you ever used such a mechanical device?

MR. NEAL: Objection to that.

THE COURT: Sustained.

MR. SILETS: Well, your Honor, I think I am entitled to establish whether he has in fact done what he

says.

THE COURT: Sustain the objection.

BY MR. SILETS:

Q At the time that you interviewed these people were other members of the Department of Justice either FBI men or otherwise working under your supervision?

A Do you mean present during the interview?

Q No, sir. During the event. The time, chronologically speaking during those times were other persons working under your supervision?

A Yes, sir.

Q To your knowledge, were recording devices used by those other persons?

A In what connection?

Q Well, in any connection, sir, with respect to this case?

A Do you mean with--

THE COURT: (Interposing) Well, now, we are talking about Mr. Walker and Mr. Fields, gentlemen.

MR. SILETS: Yes, sir, I know that, your Honor, but we have other persons who are going to be called or at least one other person is going to be called in this connection, and it is my understanding from previous testimony that other person was under his supervision.

MR. NEAL: Well, if it is limited to the Walker

and Fields with respect to that the government has no objection. Of course, beyond that, of course we object.

THE COURT: Proceed. Sustain the objection to that extent.

BY MR. SILETS:

Q Can you answer the question?

A What is the question, Mr. Silets?

MR. SILETS: Will the reporter read the question?

(Thereupon, the reporter read back as follows:)

"Question: To your knowledge were recording devices used by those other persons?

"Answer: In what connection?

"Question: Well, in any connection, sir, with respect to this case?"

MR. NEAL: Well, the objection has been sustained. The witness should be advised except with respect to Walker and Carl Fields.

THE WITNESS: With respect to those two the answer is no.

BY MR. SILETS:

Q Would you answer be differently as to others?

MR. HOOKER: We object to that.

THE COURT: Sustained.

BY MR. SILETS:

Q Now, as to those two, to your personal knowledge,

then there were no recording devices used?

A No, sir.

Q Now, who else, if anyone, would have knowledge if in fact recording devices were used?

A I would have knowledge, Mr. Silets.

Q Sir?

A I would have knowledge concerning my conversations I had with them. Now, Mr. Sheets had separate conversations with them. He would have knowledge concerning those conversations.

Q Well, sir, is there someone else in the Department of Justice who would have knowledge of the use of recording devices with respect to these two witnesses?

A No, sir.

Q Do you know Robert Urdahl?

A Yes, sir.

Q Who is Robert Urdahl?

A He is the head of one of the sections in the Criminal Division. I am not sure which one.

Q Well, do you know which one?

A I should, but I have forgotten.

Q Sir?

A I say I should but I have forgotten.

Q Have you dealt with Mr. Urdahl?

A No, sir, not recently.

Q Have you ever dealt with him with respect to the matters of this case or the Test Fleet case?

A No, sir.

Q To your knowledge, does Mr. Urdahl have any connection with this case or the matters of the Test Fleet case?

A No, sir.

Q What is Mr. Urdahl's duties?

A Well, he is the, as I recall, and I haven't had any dealing with him in quite a while, the last time I knew he was head of one of the sections in the Criminal Division.

Q But at the moment you have no knowledge?

A I can't recall.

Q How many times did you interview Mr. Walker?

A Once.

Q And where was that, sir?

A In my office.

Q Sir?

A In my office.

Q Who else was present?

A No one.

Q At that time?

A There may have been people in and out of the room but no one was actually present during the interview.

Q Do you recall the date of the interview?

A No, sir.

Q Do you recall--let me ask you this first, is it your custom upon interviewing persons to make any notes?

A Well, it depends on the interview and the purpose of the interview.

Q Well, tell us when you make notes?

A Well, if I was going to be the only one making any kind of a record of the conversation I would probably make notes.

End Tk 12
Tk 13 fls.

Q In other words, when you were alone interviewing a witness?

A I mean if I was going to be the only one who would talk to this person or if I was going to be the only one who would make a report on this interview, then I would probably make notes.

Q You mean at the time of the interview if you were the only one present you would take notes?

A No, I didn't say that, Mr. Silets.

Q Then how would you know that the man or person that you were interviewing would be in the future interviewed again?

A Well, because it was our practice in the instances we are talking about I intended to talk to the person and then turn him over to the FBI and they would have a signed statement and this is what happened.

Q Well, did you know that before you interviewed him?

A Yes, sir. If the interview was productive, I mean if it was a completely negative interview, of course --

Q (Interposing) Then you would have recorded it at that time?

A Pardon?

Q If the interview was negative, you would have made notes because you would have not then have turned him then

over to the FBI, is that your testimony?

A No, I would usually not make any notes of any negative interviews.

Q Then you would make notes of positive interviews?

A If I was going to be the only one talking to him.

Q Well, sir, is it not true under those circumstances you would not know that until the interview was complete, would you not, in the course of that kind of an interview take notes?

A Well, let me retry and explain it to you, Mr. Silets, I sometimes will have, if I am talking to someone like Mr. Walker, I may or may not have a pad there, if I have a pad I may or may not be doodling on the pad.

Q What do you mean, doodling?

A That's a different thing.

Q Let me interrupt you a moment and let me ask you what you mean by doodling?

A I think the commonly accepted meaning of doodling is drawing crazy little things.

Q All right. Continue.

A If I am going to, subsequent to my talking to this fellow, I know the FBI is going to talk to him, I know they are going to take a signed statement and I don't take any notes and I didn't take any notes.

Q Well, you did not take any notes with respect to

Mr. Walker?

A No, sir, I didn't.

Q When you say that you know that the FBI is going to interview him, is it your testimony that you would direct the agents of the FBI to interview him?

A I would request the agent of the FBI to interview him.

Q All right, that's a fine line. All right. You would request them. Did they ever turn down your request?

A No, sir.

Q All right. Now, when you requested them at that time would you give them any instructions?

A I would just briefly tell them what this man has told me and ask them if they would get in detail the --

Q (Interposing) All right. Now, as I get your testimony then, instead of taking down notes you would then convey to the FBI the results of your conversations with the witness?

A Yes, sir.

Q Now, are you familiar with the custom and practice of the FBI with respect to the reports that they must make?

A Generally speaking, yes.

Q Is it not true that the FBI makes a report of all interviews or divulgence of information to them from any source whatsoever?

A I think you better ask the FBI.

Q For example, when I was a prosecutor I would furnish information to an FBI agent and I would get a report back, a form 302, it may only be one or two paragraphs, but it would say, "Silets on such and such a date," and then set forth the information. Now, you have seen those, haven't you?

A Yes, that's the general practice.

Q That's the general practice. Now, when you gave information to the FBI concerning your interview with Mr. Walker you would get a report back, for example, from Mr. Sheets, wouldn't you, where he set forth what information you furnished him?

A No, I would get a report back setting forth what information Mr. Walker gave him.

Q No. I am asking about the report that you would get back from the FBI with respect to the fact of your conversation with the FBI and the fact of your furnishing the FBI the statements or the information Mr. Walker gave you.

A I think this sometimes happens but at the time of the events that you are talking about were transpiring, first of all, it was a very busy time, there were a lot of people coming into the Grand Jury. What I was doing was to facilitate this procedure and the FBI was working closely with me and there was no need for this type of report you are talking about.

Q You mean to say in this case they did not follow their custom and practice?

MR. NEAL: Objection, your Honor, argumentative.

THE COURT: Sustained.

BY MR. SILETS:

Q Do you know if they followed their custom and practice in this situation?

A I don't recall, Mr. Silets.

Q Sir?

A I don't recall, I don't recall receiving a report where it said that I said that they should interview Mr. Walker and that he told me such and such. I do recall that they got a signed statement from Mr. Walker and I did receive that.

Q You had certain secretaries working for you at the time?

A Yes, sir.

Q And would they be some of the people that were in and out of the office at the time?

A They could have been.

Q What are their names?

A Teresa Walston is one, Carol Ash is another, I think Freda Stevenson was there at --

Q (Interposing) Who?

A Freda Stevenson, another girl, she was there.

Q Do you have someone named Sue?

A Pardon?

Q Was there a girl named Susan working for you?

A There was a girl named Susan Shepherd who was there for several months.

Q Now, were any of these girls in and out at the time you were having the interview?

A I don't know, they could have been.

Q Would they have taken any notes?

A No, sir.

Q Now, in reviewing the matters that you obtained from Mr. Walker and which you passed on to the FBI, did you at any time ever report in writing that information?

A No, sir.

Q Never?

A No, sir.

Q Did you ever furnish any assistance to the prosecution in preparing the case before the Grand Jury?

A On a case like Mr. Walker I would convey --

Q (Interposing) First answer me, answer the question. Have you rendered any assistance?

A Yes, sir.

Q Now, will you describe the nature of the assistance?

A Taking Mr. Walker as an example, I talked to Mr.

Walker; he furnished me certain information, the FBI took a statement from him and I would convey or relay and the FBI would usually furnish the statement to Mr. Neal or whoever was handling the Grand Jury.

Q Well, in addition to Mr. Walker, there's Mr. Fields and we are talking about him as well as perhaps other persons, but restricting it now to this situation, did you ever interview any witness following your Grand Jury -- their Grand Jury appearance?

MR. NEAL: Objection, except as to the extent it relates to Walker and Fields.

THE COURT: Sustained to that extent.

BY MR. SILETS:

Q Did you interview either one or others after they had appeared before the Grand Jury?

A In the case of these two, no.

Q Was it your custom to interview persons following their Grand Jury appearance?

A No, sir, it may have happened some time but it wasn't the custom.

Q In those situations would you review your Grand Jury testimony with them?

MR. NEAL: Objection, your Honor, as being completely beyond the scope of --

THE COURT: (Interposing) Sustained.

BY MR. SILETS:

Q Did you review the testimony of Mr. Walker with any other person other than an FBI agent or Mr. Neal?

MR. NEAL: Objection, your Honor, as not being within the scope of the purpose of the hearing to determine Jencks statements, is my understanding.

MR. SILETS: It's completely relevant if --

THE COURT: (Interposing) Overrule the objection.

A Did I review?

Q Walker's testimony or Walker's information with other persons other than members of the Federal Bureau of Investigation or the attorneys prosecuting this case?

A I don't believe so.

Q Did you review this with Mr. Fred Shobe?

End 13

A No, sir.

13a

Q You know Mr. Fred Shobe?

A Yes, sir.

Q Did you show him any notes that you made of your conversations with Mr. Walker?

A No, sir.

Q Mr. Shobe was in Nashville, however, on or about the occasions you interviewed Mr. Walker?

A No, sir.

MR. NEAL: Wait a minute, Mr. Sheridan, wait just a minute.

THE COURT: Well, he has answered. Proceed.

BY MR. SILETS:

Q Now, Mr. Walker said that he saw you writing things down while you were interviewing him.

MR. NEAL: What page?

MR. SILETS: 1635.

BY MR. SILETS:

Q Is Mr. Walker telling a lie under oath when he said that?

A No, sir, I think he is probably mistaking whatever doodlings or jottings I might have been making for some kind of notes.

Q So in fact at the time you interviewed Walker you were in fact doodling, is that your testimony?

A No, it is not, sir, I say it is possible that I was, I don't recall specifically that I did.

Q Is it possible that you actually took a cryptic note?

A Well, writing down a name, it would be possible.

Q All right. Now, what kind of cryptic note did you take with respect to your interview with Mr. Walker?

A I don't recall taking any notes, Mr. Silets.

Q Mr. Walker is wrong?

MR. HOOKER: Well, we object to that.

THE COURT: Sustain the objection.

BY MR. SILETS:

Q Now, you say you interviewed him alone?

A Yes, sir.

Q Mr. Walker says there was another person present.

A I don't recall any other person being present, Mr. Silets.

Q Did you ever interview Mr. Walker in your apartment?

A No, sir.

Q It was your custom to interview persons in your apartment?

MR. NEAL: Objection, your Honor.

THE COURT: Sustained.

BY MR. SILETS:

Q How many times did you interview Mr. Fields?

A I believe once.

Q Where was that?

A In my office?

Q Did you take cryptic notes of that interview?

A No, sir.

Q Did you do doodling during that interview?

A I may have.

Q Was there anyone else present?

A No, sir.

Q Did you convey the information you obtained from

Mr. Fields to the FBI?

A Yes, sir.

Q Do you know whether the FBI in their report reflected the information which you had obtained from Mr. Fields?

A Again I don't recall any such reflection; I do recall that they interviewed him; I believe they took a signed statement and we got the results of that.

Q Well, do you have available the FBI reports that were furnished to you concerning their efforts with respect to Mr. Fields or Mr. Walker?

A I think I do, yes, sir.

Q Can you furnish them to the defense?

MR. NEAL: We won't unless the Court orders it.

THE COURT: You were furnished the FBI statement, were you not?

MR. SILETS: Your Honor, it's very simple. This appears now to be subterfuge on the part of the government to avoid the recording of notes which would otherwise be deliverable under the Jencks Act by the very method that this man, not taking the note, letting the witness go, then retelling to the FBI the substance, perhaps even verbatim substance of the conversation he had with the witness.

The FBI then records that they have obtained this information from Mr. Sheridan and not from Fields or Walker.

As a result they now have recorded exactly what the result of this interview was and they have effectively kept themselves outside of the ambit of the situation because the report itself does not reflect the information as coming from the witness but reflects it as coming from Mr. Sheridan.

A Mr. Silets, I didn't say that they did that; I don't recall any such report indicating that I said such and such and then followed up by a report that Walker said such and such.

End 13a
14 fls

Q Well, now, you testified to that previously on the motion to suppress of Mr. Partin. I submit, Your Honor, that we are having inconsistent testimony here at the very minimum if the Court will not turn these FBI reports over to us that the Court should in camera--

THE COURT: (Interposing) Mr. Silets, the FBI report as signed was turned over to you. The signed statement of the witness was turned over to you.

MR. SILETS: May I respond?

MR. NEAL: If Your Honor please, it must be painfully obvious there has been no subterfuge of the government in this case. They have brought out inconsistent statements here. We have turned over inconsistent as well as consistent statements; that has been their big point. Certainly if there has been any subterfusion involved, we would have done a much better job of it.

MR. SILETS: If Your Honor please, the FBI report I'm now asking to see is not the one involving the interview between the FBI agent and the witness himself. But the interview between Mr. Sheridan and the FBI. Mr. Sheridan passed information on to the FBI.

THE WITNESS: Mr. Silets--

MR. SILETS: (Interposing) Let the Court rule, Mr. Sheridan.

THE COURT: Proceed with your questioning of this

witness.

MR. SILETS: Sir?

THE COURT: Proceed with your questioning.

BY MR. SILETS:

Q Now, is it your testimony that you never put in writing, you yourself, any of the results of the conversations you had with Walker or Fields?

A Yes, sir.

MR. SILETS: Now, Your Honor, I would like to examine Mr. Sheridan with respect to matters pertaining to Mr. Partin with respect to the matter that was raised this morning and to elicit from him not only information relating to Mr. Partin but from Mr. Sheridan's own lips to know what his custom and practice was and I think we can develop that from what he has done with Mr. Partin.

THE COURT: I will reserve your request in that respect until I have studied the record.

MR. SILETS: Well, I have no further questions, Your Honor.

MR. HOOKER: No questions for the government, Your Honor.

THE COURT: All right. You may be excused, Mr. Sheridan.

(Witness excused.)

THE COURT: May we have Mr. Sheets called?

Investigation?

A I am, sir.

Q And you have been such I think 23 years?

A Almost 24 years.

Q Now, Mr. Sheets, during the years 1962 and 1963 the FBI maintained a certain system of reporting, did it not?

A Yes, sir.

Q You are familiar with that system of reporting?

A Yes, sir.

Q Would you briefly tell the Court what the system was.

A In what respect, Mr. Silets?

Q Well, on what occasions first would you make a report of whatever work you had done or persons you had interviewed?

A We would make a report on all investigations that we conduct.

Q Would that include all interviews that you would have?

A Yes, sir.

Q And that would include all activities, physical activities, you would have, is that correct?

A Yes, sir, as long as the activity was relevant to the investigation.

Q And as long as it was within the course of your

duties, is that right?

A Yes, sir.

Q Now, often times it becomes the duty of an FBI agent to speak to counsel for the government. Is that right?

A Yes, sir.

MR. HOOKER: We think this is all too general, if Your Honor please.

MR. SILETS: Your Honor, I'm laying a foundation.

BY MR. SILETS:

Q Now, Mr. Sheets, you know Mr. Walter Sheridan, the man who just left the stand?

A Yes, sir.

Q Did you have a conversation with him when you passed him in the hall just now?

A No, sir.

Q Now, during the year 1962 and 1963 did you work with Mr. Sheridan?

A Yes, sir.

Q And specifically did you work with him with respect to an investigation being conducted as to these defendants?

A Yes, sir.

Q Now, during those occasions did Mr. Sheridan ever have the opportunity to furnish you with information?

A Yes, sir.

Q Now, in those instances, did you follow your custom and practice and the assigned routine of the FBI to prepare a report of that conversation with Mr. Sheridan?

A I followed the routine. I don't mean to say that every time he told me something I put it in an investigative report.

Q No, sir, but every time he told you something of significance and materiality to the investigation, you would in fact follow the custom of the FBI and prepare a Report Form Number 302?

MR. NEAL: Your Honor, I think we ought to limit this to Mr. Walker and Mr. Fields.

THE COURT: Sustain the objection.

MR. SILETS: All right, limiting it to Mr. Walker and Mr. Sheets. I mean Mr. Fields. Sorry, sir.

THE WITNESS: We would prepare what you would call Form F.D. 302 on any interview that we thought might result in evidence. Might result in testimony.

BY MR. SILETS:

Q All right, now, in this situation then if-- Let me put it this way, is it true, it is true, is it not, that from time to time in the course of your working with Mr. Sheridan on this case, he in fact furnished you material and relevant information which you used as part of your investigation?

End 14

Th 14 A
foll.

TK 14A
EW 1

Sheets

A I said that, yes, sir.

Q Now, isn't that also true that the same situation occurred with respect to an interview that Mr. Sheridan with a Mr. Walker?

A As I recall, Mr. Sheridan told me he had talked with Carl Fields. This, I recall, was first, and that Carl Fields had given him certain information as a result of which he requested that the FBI interview Carl Fields.

Q Now, Mr. Sheridan in that situation indicated to you what areas your investigation should cover?

A No, sir.

Q Well, he, of course, furnished to you the information as to what Fields had advised him?

A Briefly, yes, sir.

Q And can you relate what information Mr. Sheridan gave you as to what information he obtained from Mr. Fields?

A Well, the best I recall, he said that he talked with Carl Fields who said that he had been contacted by one of the defendants here in an effort to cause him to attempt to influence his father's vote in the trial of Mr. Hoffa.

Q And based upon that you proceeded to conduct a further investigation with respect to Mr. Fields?

A I interviewed Mr. Fields, yes, sir.

Q Well, then I assume you felt that the information furnished to you by Mr. Sheridan was both material and relevant to your investigation?

A Yes, sir. I did not think it was anything he could testify--

Q (Interposing) With your Form 302--

A (Interposing) Would you let me say this?

Q Sir?

A I did not think that it was anything he could testify to.

Q Who?

A Mr. Sheridan.

Q I understand, but Mr. Sheridan had furnished you relevant material and information concerning Mr. Fields?

A That's right.

Q Which he obtained in his interview with Mr. Fields?

A That is right, sir.

Q Now, do you have with you your Form F. D. 302 of your report of this information being furnished to you?

A No, sir.

Q Where is that, sir?

A One was not prepared.

Q Can you tell the Court why you didn't follow your custom and practice in this situation?

A I just said the information Mr. Sheridan gave me I do not feel that he would be competent to testify in court as to that. Therefore, I did not prepare what you

call F. D. 302. I reported it in narrative fashion.

Q You reported what in a narrative fashion?

A What Mr. Sheridan told me.

Q All right. Now, where did you report that?

A In an FBI investigative report.

Q All right, now, is that the same FBI investigative report that was turned over in open court here? Do you have that, Mister--

MR. NEAL: (Interposing) Do you have a copy of that?

MR. BERKE: Here.

THE COURT: At the time this witness was examined by the Court there were two documents which the defendants stated were delivered to them as Jencks Act statements on the Witness Fields. Is that correct?

MR. SILETS: Yes, sir, I'm having the court reporter now mark photostatic copies of those two documents which have permitted the government to examine to make sure they are true and correct.

THE CLERK: No. 150 would be, what is it, a statement? Dated 2-

MR. SILETS: He will identify them, Mr. Clerk.

THE CLERK: No. 150 and No. 151.

The documents referred to above were marked for identification as Exhibit Nos. 150 and 151.)

Sheets

BY MR. SILETS:

Q Now, sir, will you tell what No. 150 is and No. 151?

End Tk 14A
Tk 15 fls.

A 150 appears to be a copy of a four-page signed statement taken by special agents Edward T. Steele and William L. Sheets from Carl Edward Fields in Nashville on March 26th, 1963.

Q Are you the same special agent Sheets referred to in that document?

A Yes, sir.

Q All right.

A Is this 151?

Q I think it's marked 151, Mr. Sheets.

A 151 is an F.D.-302, otherwise called an interview report form, concerning the interview with Mr. Carl Edward Fields on April--, on March 26, 1963.

Q Now, look at those carefully and tell the Court if either one of those is the form F. D.-302 which you prepared at the time you obtained the information from Mr. Sheridan.

A The 151 is the F.D.-302 that I prepared based upon the information with Mr. Fields, not with Mr. Sheridan.

Q That is your answer, neither one of those are the documents to which you have just testified?

A That is true.

Q Now, where is the document that you have just testified to?

A The information Mr. Sheridan furnished?

Q Yes, sir.

A It is in narrative form in an FBI investigative report, probably the same report from which these were extracted.

MR. SILETS: All right. Now, I call upon the Court that the Court direct the government to turn that over to the defense so that we may use in cross examination.

THE COURT: All right. Has that report been made available to the Court?

MR. NEAL: Your Honor, may I examine this witness momentarily?

THE COURT: All right. Yes.

EXAMINATION

BY MR. NEAL:

Q Mr. Sheets, tell us about this, you know what Mr. Silets is speaking of?

A I think I do, yes, sir.

MR. NEAL: You want to get some--

MR. SILETS: (Interposing) We are just going to switch places.

MR. NEAL: I thought you wanted me to ask him these questions.

MR. SILETS: No.

BY MR. NEAL:

Q Do you know what Mr. Silets is talking about?

A I believe I do.

Q You talked to Mr. Sheridan, is that right?

A That's right.

Q And he would tell you that--, he would tell you that he had talked to, say, Carl Fields?

A Yes, sir.

Q Carl Fields had given him some information?

A Right, and wanted me to interview him.

Q Yes. Would he go over in detail to you the information?

A No, sir.

Q What would he do?

A He would merely say that Carl Fields had furnished information indicating that he had some knowledge of this case and requested that he be interviewed, would leave it up to me to get the details.

Q Mr. Sheridan would merely appoint you the person to interview or suggest to you the person you interview?

A Yes, sir.

Q And in a very general nature outline the area of the interview?

A Yes, sir.

Q And that's it?

A That's it.

Q Now, what would you do when you got that?

A I would interview Mr. Fields.

End 15

15A fol.

Q What would you do with respect to your conversation with Mr. Sheridan?

A I later wrote the report, in order for the report to make some sense, I would in narrative form say that Mr. Walter J. Sheridan had advised me on such and such a date that he had information that Carl Edward Fields had knowledge of this case or I had furnished him some information and that he requested that we interview him, then the interview would follow.

Q Then the interview would follow?

A Yes.

Q That would be --

A (Interposing) That's right.

Q Is that substantially what we turned over to the Court, have we?

A Yes, sir.

MR. NEAL: Your Honor, I don't see that -- this is merely a preface or an explanation to show how you got into this interview?

THE WITNESS: Yes, sir.

BY MR. NEAL:

Q The following interviews?

A Yes, sir.

MR. NEAL: Your Honor, I don't see how in the world -- actually we have no objection, if I can find them,

turning these over to the Court, but I don't see that they are in any manner of means a Jencks statement. We are talking about the prefatory part of a subsequent interview in an FBI report saying that based on information furnished by Mr. Sheridan we interviewed Carl Fields. Is that substantially it?

THE WITNESS: That's right.

BY MR. NEAL:

Q Or based on information related to us by Mr. Fields or Mr. Sheridan Mr. Fields had information with respect to this case, we interviewed Carl Fields?

A That is right.

THE COURT: Well, if you can find any such report submit it to the Court for the Court's examination.

MR. NEAL: Very well, your Honor.

MR. SILETS: All right.

EXAMINATION BY MR. SILETS:

Q How many times did you interview Mr. Walker?

A On two occasions, as I recall.

Q Sir?

A On two occasions, as best I recall.

Q Where did you interview him?

A I first interviewed him at his residence, in an automobile behind his residence, the second time I interviewed him on the Eighth Floor of the U. S. Courthouse.

Q Now, in each of those situations was anyone else present?

A You are speaking of Mr. Fields?

Q Sir, Mr. Walker.

A Mr. Walker. When I talked with him at the back of his residence, Mr. Disspayne was present, when I interviewed him at the U. S. Courthouse I was alone.

Q Mr. Disspayne was present?

A Yes, sir.

Q Well, when you interviewed him behind the house, that is when the marshal for the Middle District of Tennessee was with you, Mr. Disspayne?

A Yes, sir.

Q Did you take notes of your conversation?

A I may have taken very brief notes, it was a very brief interview.

Q But your answer is you, in fact, took notes?

A I believe I did, yes, sir.

Q All right. Now, when was it that you obtained a signed affidavit from Mr. Walker?

A I believe it was April 1. I don't have the Walker report here, I believe it was April 1.

Q And who was present at that time?

A No one.

Q Did you review the statement with Mr. Walker?

Sheets

A Yes, sir.

Q Did he sign it in your presence?

A Yes, sir.

Q Did he swear to it in your presence?

A No, sir.

Q Where did he swear to it?

A I am not in a position to make statements of that type under oath.

Q Well, was it ever sworn to?

A Not to my knowledge, mine wasn't.

Q Well, was it ever witnessed?

A Yes, sir.

Q By whom?

A Mr. Beatty.

Q Who is he?

A He is the Chief Deputy U. S. Marshal.

Q Well, did he come in during the course of the interview?

A No, sir, I had to go get him.

Q And he was there just to witness the signing of it?

A Yes, sir.

Q So that is not really a sworn statement, is it?

A I have never said it was.

Q Now, is it the custom and practice of the FBI to

use marshals to go on investigations with them?

A No, sir.

Q Tell us why in this particular circumstance you had the Chief Marshal Disspayne with you?

A I had tried to contact Mr. Walker the previous day and I was unable to find him. On this occasion Elmer Disspayne told me he had a subpoena for Mr. Walker and asked me if I knew where he lived. I told him I did. He asked me if I would go with him and show him where he lived. I told him I had also been trying to contact him to interview him, so I went with Mr. Marshal -- with Mr. Disspayne to show him where Walker lived.

Mr. Walker was home. We knocked on his back door. We got in the car and talked with him briefly and after I completed the brief interview, Mr. Disspayne served the subpoena on him.

End 15a
15b fls

Q Do you know what the nature of the subpoena was?

A It was a grand jury subpoena, as I recall.

Q Was the issuance--was the service of the subpoena predicated upon your interview?

A No, sir.

MR. NEAL: Your Honor, is this relevant?

THE COURT: Sustain the objection.

BY MR. SILETS:

Q Did Mr. Disspayne overhear your conversation with Mr. Walker?

A Yes, sir, he was in the car. He did not participate in the interview.

Q Did he take any notes of that conversation?

A No, sir.

Q Now, when you took your notes, was it in longhand or shorthand?

A Probably both.

Q And do you have those available?

A No, sir.

Q Where are they?

A I destroyed them.

Q Now, at the time you destroyed them you, of course, had already known that Mr. Walker was going to be a witness before the grand jury?

A Well, I thought he might be.

Q Well, you knew that he was served with a subpoena to appear before the grand jury?

A Yes, sir.

Q All right. So then you knew at the time you destroyed your notes, which was subsequent to this time, that he, in fact, was going to be or had been a witness before the grand jury?

A Yes, sir.

Q And it's a matter of fact at the time that you destroyed those notes you had knowledge that the grand jury was investigating the very matters that you were investigating?

A Yes, sir.

Q Now, Mr. Sheets, did you take any notes of your conversation with Mr. Walker in the courthouse?

A Yes, sir.

Q And was that following or before his testimony before the grand jury?

A I think it was before, Mr. Silets, I am not positive.

Q Were those notes in longhand or shorthand?

A Both.

Q Do you have those available?

A No, sir.

Q Where are they?

A I destroyed them.

Q Now, again you destroyed them with knowledge that he was going to be or had been a witness before the grand jury in matters related to those that you, yourself, were investigating?

A Yes, sir.

Q Now, Mr. Sheets, when you say you destroyed them, did you burn them, discard them, or did you send them on to another source within the Federal Government?

A I did with those notes what I did with all notes of that type, after I have dictated the report, after I have compared the report with the notes, approved its accuracy, made any corrections necessary, we destroy the notes.

Q How do you destroy them, burn them?

A Throw them in the wastebasket.

Q You have no internal control about your work product, no fear that it's going to be picked up by anybody because it's thrown in a wastebasket?

A Well, we have a system where a person burns our trash.

Q Then to your knowledge the trash, these notes, after they are thrown in the wastebasket were burned?

A Yes, sir.

Q According to your system of the FBI?

A That's right, sir.

Q Now, is it your testimony then you have only--

let me strike that--did you have--how many times have you spoken to Mr. Walker?

A I recall only the two occasions and now it's possible that I may have talked with him on the phone or passed him in the corridor but I have not interviewed him to the best of my recollection except those two occasions.

Q Well, when you say you spoke to him on the phone, would that be he initiating the call to you or you to him?

A I really don't recall, I am not even sure that I ever spoke with him on the phone, I know that I talked with Carl Fields on the phone at one time.

Q You did speak with Mr. Fields on the phone?

A Yes, sir.

Q Did you make a note of your conversation with him?

A Yes, sir.

Q Is it incorporated in this document?

A No, sir.

Q Well, could you produce it, please?

A I don't know that I ever put it in a report, it wasn't very relevant.

Q Well, you took a note?

A I made a note as I usually do.

Q Of your conversation, sir?

A I made a note as I usually do when someone calls me on business.

End Tk 15B
Tk 16 fls.

BY MR. SILETS:

Q Now, do you have those available so the defense may look at them, sir?

A No, sir.

Q Well, where is that note?

A They were destroyed.

Q Did you use that note for any other purpose?

A Not that I recall.

Q Do you mean you took the note and then destroyed it?

A Yes, sir.

Q Without having used it for any purpose?

A I don't recall whether I ever mentioned that conversation in any report or not, Mr. Silets.

Q Sir?

A I don't recall whether I ever reported any of that conversation in a report or not.

Q Well, it is your custom and practice as well as all other agents of the FBI to make a note of all phone conversations having to do with the course of your duties?

A If it is relevant.

Q Well, you make the decision at the time, do you, if it is relevant or not?

A Yes, sir.

Q Well, now apparently in this situation you did

make a decision that it was relevant because you took a note?

A No, I wouldn't.

Q Now, what was the substance of the conversation?

A Would you like for me to tell you the substance of it?

Q Yes.

A He merely called me one night at home and said that some of the attorneys were trying to contact him or had been to his home and his wife was upset. Wanted to know if he had to talk with them.

Q What did you tell him?

A I told him that he had a perfect right to talk with them or he had a right to decline to talk with them.

Q Now, you made a note of that?

A By making a note usually when I go to the phone and someone starts talking about witnesses I might make a note or two.

Q Well, you made a note or two in this situation then destroyed it; did you destroy it through the channels of the FBI so that it would be burned?

A No, sir, I don't believe so. The note never left my residence.

Q Now this was at a time subsequent to the time that Mr. Fields had appeared before the grand jury?

A Yes, sir.

Q And to your knowledge you were there at the time that this sought for interview by defense counsel was in relation to the matters here testified before the Grand Jury?

A Yes, sir, I assume so.

Q Now, Mr. Walker, how many times did he talk to you?

A Mr. Walker?

Q Yes.

A I believe I testified that on two occasions I interviewed Mr. Walker.

Q Well, I'm now talking about phone conversations or any conversations other than the two interviews.

A I do not recall ever receiving a telephone call from Mr. Walker nor do I recall ever telephoning him.

Q Mr. Walker says on Page 1616 of the transcript that he spoke to you maybe a dozen times.

A I wasn't aware of that, sir.

Q Do you mean that is not the truth?

A I was not aware that he said that.

Q No, sir, I'm asking you is that the truth?

A No, sir, that is not the truth.

Q Now he says on Page 1617 that some of these were in your office and some were by telephone and the first occasion was in his home. Now, is it your sworn testimony he

never spoke to you on the phone but merely in your office and one time at his house?

A I told you that to the best of my recollection I do not recall having a telephone conversation with Jack Walker.

Q Have you ever used any mechanical devices to record a conversation?

MR. NEAL: Just a moment, Your Honor, we object unless it be limited to these two people.

THE COURT: Sustained.

BY MR. SILETS:

Q All right, have you ever used a mechanical or recording device to record a conversation with respect to Walker or Fields?

A No, sir.

Q To your knowledge has any other member of the Department of Justice used such a device with respect to any witness?

MR. NEAL: Objection, Your Honor.

THE COURT: Sustained.

BY MR. SILETS:

Q With respect to either Walker or Fields?

A No, sir.

Q Do you know a Mr. Fred Shobe?

A No, sir.

Q Did you ever take any notes of conversations that you had with Mr. Sheridan?

A Yes, sir.

Q And those would be recorded on the form 302?

A Some were. Some were not. Pardon me, Mr. Silets.

Q Sir?

A At no time would an F.D.-302 be prepared.

Q But you would make notes?

A I would make notes, yes, sir.

Q And those notes contained the result of Mr. Sheridan's investigative efforts?

A I wouldn't say that.

Q Well, do you mean I'm characterizing it wrong, it should not be investigative efforts?

A Notes I made were notes made regarding information furnished to me by Mr. Sheridan.

End 16

Tk 16A foll.

Q Now, from time to time is it not true that Mr. Sheridan would have elicited a particularly damaging statement from a witness which was particularly relevant and material to your investigation and isn't it true that that quotation or that damaging statement would be included in your report?

A I don't believe so. I don't recall any instance of that type.

Q Well, is it your custom and practice to include such,as I characterize them, damaging statements?

A Mr. Silets, in our report it would not be important what, for example, Carl Fields told Walter Sheridan. It would be important what Carl Fields testified from this stand, or what he put in the signed statement.

Q Well, what he testified from the stand it is not for you to decide. It is for the Court and jury to decide. But if Mr. Fields said that someone had offered him a bribe or offered his father a bribe and he had told that, for example, to Mr. Sheridan, is it not true that Mr. Sheridan would convey that information in those words to you so that you could then go to Fields and question him about that?

A Yes, sir.

Q And isn't it true that in your report you would include that specific reference?

A I probably would, yes, sir.

MR. SILETS: Your Honor, I have now made out a

substantially verbatim transcript of a conversation and I think I am entitled to see this Form 302 and all Forms 302 where such--

THE COURT: (Interposing) Mr. Silets, let's look a minute, haven't you set up a hypothetical situation? You said now if the witness, Mr. Walker, had said so-and-so, wouldn't you have done so-and-so and so-and-so and so-and-so?

MR. SILETS: Well, that is his custom and practice.

THE COURT: Well, you are asking hypothetical questions. Let's talk about what was done in this case. Not any hypothetical situations. If Mr. Walker made statements, let's talk about those statements.

MR. SILETS: Well, now, Mr. Fields was similarly interviewed by Mr. Sheridan, isn't that right?

THE WITNESS: I do not know. I believe I talked with him first.

BY MR. SILETS:

Q Now, do you remember a quotation from Mr. Walker, well, that he believed Parks was "trying to bail Carl"?

A Bait, I believe, is the word?

Q Well, it is mis-typed on this record.

A It is bait, I believe, Mr. Silets.

Q Do you remember that, trying to bait Carl?

A Yes, sir.

Q Now, isn't that a statement that you obtained

Sheets

from Mr. Sheridan?

A No, sir.

Q It is not?

A No, sir.

Q Do you recall some specific reference to Walker always referring to the conversation with Parks as those people or they?

A Yes, sir.

Q Do you recall you using those quotation marks in your report?

A Yes, sir.

Q Now, isn't it also true, Mr. Sheets, that that specific language was used by Mr. Sheridan?

A No, sir.

Q Well, your Honor, at least I think the Court should examine this in camera to ascertain whether this man is telling the truth.

MR. NEAL: Your Honor, Mr. Silets has no right and it is scandalous to get up here and accuse a man of lying. He is fishing around here, he is fishing around here for something, your Honor has very patiently allowed him to go on and on and on. There is no basis for any kind of examination like this. I will turn over to the Court, we would like to get this FBI report back, but I will turn over to the Court the FBI report of Fields and Walker approach.

MR. SILETS: Can that be marked?

MR. NEAL: Just a moment. Just a moment. On the second page thereof you will see what the witness has referred to as his prefatory statement about how he got in the investigation. The short statement refers to Carl Fields. There is none with respect to Jack Walker. In other words, the Jack Walker report, the Jack Walker interview, is not preceded by such a statement. I will turn both of these over to the Court. We would like to get the report back. It appears to be the only one we have in our file. We have cut these things up so much to give to defense counsel.

MR. SILETS: Well, it is unfortunate, your Honor, that that be done because Congress has enacted that be done.

MR. NEAL: Congress has never met you, Mr. Silets.

THE COURT: Congress has apparently never sat on the bench.

MR. SILETS: Yes, it is unfortunate, too.

THE CLERK: No. 152.

THE COURT: Well, I will consider these.

MR. SILETS: Can they be marked with the next number? I believe that would be 153.

THE COURT: Well, we will mark them at such time as I have had an opportunity to examine them. Two documents.

MR. NEAL: If your Honor please, if your Honor is going to make the full FBI report an exhibit may we get

them back and photostat them? As I say, we have cut the others up and given the others over to the defendants. That is the small portion on Page 2, your Honor.

End Tk 16A
Tk 17 fls.

THE COURT: Well, in other words, this separate document is the portion of page 2 on the report?

MR. NEAL: Yes, your Honor, cut from another report.

THE COURT: I see.

MR. NEAL: It is merely the prefatory statement of the way they get into these statements apparently.

THE COURT: Well, there have been two reports delivered to the Court, one a report of several pages and the other an extract from that report, being a portion of page 2 on that report. I will examine those during the lunch hour.

BY MR. SILETS:

Q You have in your hand, sir, a document which has been marked Exhibit 152 for identification. Would you identify the document?

A It appears to be identical with one of the other exhibits except that is not on the usual form.

Q Isn't that --

THE COURT: (Interposing) Exhibit number what? I am sorry.

THE WITNESS: I am not sure which one, if your Honor please. It appears to be identical with one I looked at a moment ago except on a different form.

BY MR. SILETS:

Q I believe that pertains to Mr. Walker, 150, and

151 pertains to Mr. Fields, is that not true, sir?

A Well, this does not appear to be an FD-302 in that it doesn't have the usual information at the bottom, it does appear to be the report of my interview with Mr. Walker.

Q What is the cover sheet?

A Well, it just begins my interview with him, but, as you see, Mr. Silets, it's not this form. I do not believe that this was taken out of the report because I believe that would be a form similar to this.

THE COURT: Mr. Hutcheson, I notice you reported back to the courtroom. Rather than keep you waiting, can we take up your matter at 4:30 this afternoon?

MR. HUTCHESON: Yes, your Honor.

MR. SILETS: Your Honor, what I am trying to do is have marked the FBI report with respect to Mr. Walker.

MR. NEAL: Let the witness compare that with the original. I think it's the same thing.

MR. SILETS: All right. Mr. Neal hands me what looks like the original. Will you compare it and make sure that it's correct so that Exhibit 152 may be filed with the Court as a correct copy of your FBI report?

THE WITNESS: It appears to be identical, Mr. Silets.

MR. SILETS: All right. May we file the copy,

then, your Honor? That is the only report that you made on Mr. Walker, is that your testimony?

THE WITNESS: I believe this covers the two interviews I had with him, yes.

BY MR. SILETS:

Q All right. Other than what you have testified to today this is the only document that you ever produced as part of your investigation?

A With respect to the interviews with Walker, yes, sir.

MR. SILETS: Now, your Honor, except for your Honor's ruling on the delivery to the defense of this additional form 302 I have concluded my examination.

THE COURT: All right.

MR. SILETS: And based upon the testimony of Mr. Sheets I now move to strike all of the testimony of Mr. Walker and of Mr. Fields on the basis that from the testimony of Mr. Sheets that the notes of the interview were destroyed with full knowledge that they were material relevant to the investigation and the pending indictment or the forthcoming indictment, all with the purpose of refusing or restraining from the defense or the forthcoming defense the right to examine the original documents.

THE COURT: Overrule that motion. Very well, may we straighten the record out now and file the exhibits with

the Clerk that are to be filed with the Clerk and return the originals to the government or whoever they belong to? Does the Clerk have Exhibits 150, 151, and 152?

MR. DALE: Yes, your Honor.

THE COURT: Mr. Sheets, you may be excused.

THE WITNESS: Thank you, sir.

(Witness excused.)

THE COURT: The jury may remain at their quarters until the Court further calls for them.

Let's adjourn court until 1:30.

(Thereupon, at 12:12 o'clock, p.m., court was adjourned for the noon recess until 1:30 o'clock, p.m.)

E[illegible] 17
1[illegible] fls

AFTERNOON SESSION

1:30 O'Clock P.M.
February 14, 1964

(Thereupon, pursuant to adjournment for the noon recess, court was in session, and in the absence of the jury of twelve and four alternates, the following proceedings were had, to-wit:)

MR. HAGGERTY: The government is not here, your Honor.

THE COURT: Gentlemen, the Court has examined the document delivered to the Court for inspection in connection with examination of the Witness Sheets before lunch. The document is not in any respect a document subject to production under the Jencks Act. I have sealed the document. It will be filed as the next exhibit. I assume that would be Exhibit No. 153.

THE CLERK: No. 153.

(The document referred to above was marked for identification as Exhibit No. 153.)

MR. NEAL: Would it be possible to get the report back, your Honor? Did your Honor state that that is exact --

THE COURT: (Interposing) Well, that is the page number 2 from it which is the only thing that relates in any way to the matter. I have compared it with the report. The report is not in any way --, does not in any way relate.

All right.

MR. HAGGERTY: I have a request to make to the Court.

THE COURT: All right.

MR. HAGGERTY: Would your Honor permit me to examine the sealed Exhibits No. 68, No. 88, No. 108, No. 111 --

THE COURT: (Interposing) Let me get those down.

MR. HAGGERTY: No. 68, No. 88, No. 108, No. 111, No. 112, No. 114, with the Clerk present?

THE COURT: I will allow you to examine the exhibits without unsealing them.

MR. HAGGERTY: Why, certainly, your Honor.

THE COURT: Yes, sir; yes, sir.

MR. HAGGERTY: At the end of the session?

THE COURT: Yes, sir.

MR. HAGGERTY: Would your Honor so instruct the Clerk how the Court --

THE COURT: (Interposing) Yes, the Clerk is so instructed. Counsel may examine the documents without unsealing the documents.

MR. NEAL: But they're not to be opened?

THE COURT: That's correct, without unsealing the documents. The physical envelope may be examined.

MR. HAGGERTY: And any other sealed exhibits

numbers I may have omitted?

THE COURT: Yes.

THE CLERK: Your Honor, 108 is not sealed.

THE COURT: 108 is not a sealed exhibit?

THE CLERK: No, sir.

MR. HAGGERTY: I'm in error on that?

THE CLERK: According to our records it is unsealed, No. 108 is not among the sealed exhibits. Do you mean, your Honor, he can look at all of them?

THE COURT: That's correct. Not permit him to open them. All right, are the defendants ready to proceed with their case?

MR. BRANSTETTER: May it please the Court, I don't recall whether the Court ever ruled specifically on permitting defense counsel to see the inter-office memoranda dealing with payment of funds to Mr. Partin's wife, vouchers, or with reference to it.

THE COURT: If I have not ruled on that, I will rule that it is not subject to production.

MR. BRANSTETTER: We would like to have it sealed also.

THE COURT: All right. Yes, sir.

MR. BRANSTETTER: May it please the Court, I have a motion seeking to have certain testimony stricken from the record. I have furnished government counsel with a copy. I

also have a very short memorandum with reference to it.

THE COURT: All right.

MR. BRANSTETTER: I believe the Court has read this particular motion. I don't know that there is any -- if the Court would prefer, I would read the motion as such, but merely we seek on behalf of Defendant Campbell to have stricken from the record the testimony of Edward G. Partin appearing at page 3284 of the transcript and the testimony is set out in the motion in full. It deals with a statement of an alleged past occurrence or completed tranactions and based further upon the statement of a defendant not in the presence of the Defendant Campbell. We have argued the matters considerably related to this on a number of previous occasions. I have handed up a short memorandum on this particular point and we have also briefed the point previously with reference to the admissibility of statements of one defendant in the absence of the other defendant.

I might add also, may it please the Court, that I believe that it has been quite generally conceded here by the Court and, of course, by counsel and by the government in essence that the statements of one defendant not made in the presence of another defendant relating to an alleged completed transaction or act is not admissible as against any defendant, certainly that is not present when such statement is made.

End 18
19 fls

As a matter of fact, on yesterday, in yesterday's transcript when this issue came up as to the law on the subject, I believe that it was stated by government counsel in substance that the law was that the statements of one defendant not in the presence of another dealing with a completed act or transaction was not admissible as against other defendants. I think that is generally conceded is the law so at this time I would move, may it please the Court, insofar as the Defendant Campbell is concerned, that the testimony referred to in the motion just handed the Court be stricken.

THE COURT: All right. Allow the motion to be filed with the clerk. I believe the motion should be over-ruled.

MR. BRANSTETTER: I have a motion that I would like to hand up to the Court on behalf of the Defendant Campbell.

THE COURT: Apparently there is a typographical error in the caption.

MR. BRANSTETTER: May I correct the Court's file?

THE COURT: I assume it is "conclusion of the government case in chief"?

MR. BRANSTETTER: That is correct, may it please the Court. I might state that I would also hand in a

partial memorandum of law dealing with this. The speed with which these matters have been drafted has been such that there may be a number of typographical errors in there, and, of course, we would like to ask the privilege of correcting any that may be involved.

THE COURT: All right. Anything further you wish to say at this time?

MR. BRANSTETTER: Yes, may it please the Court, I would like to argue my motion. I would like to certainly correct the heading on the motion itself if the Court did not do so to state "at the conclusion of the government's case in chief", on the motion, was it corrected on the one that was handed up?

THE COURT: Yes, I corrected it.

MR. BRANSTETTER: Thank you, Your Honor. This motion, may it please the Court, deals with Count 3 of the indictment and Count 3 of the indictment in substance charges the Defendant Campbell with aiding and abetting Defendant Parks.

The first ground of the motion is that there is no evidence that has been presented upon which the jury could base a finding of guilt against the Defendant Campbell.

Now, I have set out in chronological order in the memorandum that was handed to the Court the totality of all evidence that could conceivably be related to the

Defendant Campbell.

That evidence is in substance the recitation by certain phone company officials of a number of telephone calls that were made from one station to another station and the testimony that Larry Campbell had been seen or observed in the area where the telephone number was located at particular times and particular places. There was no designation in the proof at any point, and I assert this, may it please the Court, rather dogmatically because I checked the record closely, there is no evidence in this record to indicate the person called or the content of any telephone conversation insofar as Larry Campbell is concerned, no where in the record.

That matter, therefore, boils itself down to this proposition insofar as all of the evidence is concerned dealing with telephone calls as far as Larry Campbell is concerned. The question is simply this:

Does proof that a telephone call was made from one station to another, without any evidence whatsoever as to the content of the telephone conversation or the person who received it, constitute any evidence showing the commission of a crime as alleged in Count 3 of the indictment?

The law in the Sixth Circuit is rather clear on this particular point. I have cited in some detail in my memorandum brief some cases, particularly the cases insofar

as they relate to the technical legal requirements of proof to establish the commission of a crime of the nature alleged in Count 3 of the indictment.

End 19

Tk 20 fol.

This is not the basic proposition, may it please the Court, the basic proposition is on a motion for judgment of acquittal at the conclusion of the government's case in chief, it is the duty of the Court to weigh the evidence and apply the law to that evidence, if any, and I will state it is favorable to the government and as favorable under the law as I can accurately state it, and that is this, in weighing the evidence and applying the law to that evidence the Court must indulge in all reasonable presumptions or reasonable inferences that may arise from competent evidence or any evidence that may be considered as substantial in character that is applicable against the particular defendant involved.

So if we take the first proposition dealing with the phone calls, the government would have to assert this proposition, they would have to say that the call was made, this is an established fact, we will say for the purpose of argument, we will say for the purpose of argument that Larry Campbell made it. That is not the case in many of them.

So we take the basic fact that the phone call was made from a particular station by a particular individual from that and to a particular number, receiving number. We would say then from those facts we will infer that the telephone conversation dealt with the matters in the indictment and since they dealt with the matters covered in the

indictment we would then further infer that they were of such a character as to constitute aiding and abetting. We would have from the very beginning the proposition of an inference on an inference on an inference, it would be at least four steps removed from any evidentiary value whatsoever.

I do not believe nor can I understand how the government can reasonably assert a proposition before this Court that the making of a phone call from one station to another station without any evidence whatsoever as to its content that there could be inferred the three further steps and say that it dealt with the matter under indictment, with the party under indictment, with the specific acts required for the alleged commission of a crime.

I do not believe that that argument can be reasonably made to this Court under any theory of the law.

If we then assume that the government cannot reasonably argue to the Court that the phone calls involved dealt with aiding and abetting Parks and they cannot reasonably argue this, then we would move to the next step and see if they have any evidence whatsoever from which an inference could be drawn connecting the Defendant Campbell with the alleged commission of the acts of Parks in any particular. The only other evidence in the entire record dealing with the Defendant Campbell--may I say, may it please the Court,

before leaving the telephone calls just for a moment, the Court will recall that the matters alleged in Count 3 of the indictment deal with Juror Fields. Now, the government filed in the United States District Court for the Middle District of Tennessee, a memorandum, I should say a motion, they filed a motion thusly in the prior proceeding.

This motion was headed "Government's Motion to Disqualify Juror No. 12 Pursuant to Federal Rules of Criminal Procedure 24-C."

This memorandum was signed by James F. Neal, Shaffer, Durkin, Lewin, Attorneys, and Kenneth Harwell.

In this document there was filed and is part of the record in this cause, or I will make it part of the record in this cause at the appropriate time by attaching it as argument only to my brief. In this document the government takes this position, they say, the government hereby moves on the basis of evidence submitted to the Court for the disqualification of regular Juror No. 12, Gratin Fields, and for the substitution by the next alternate juror pursuant to Federal Rules of Criminal Procedure 24-C.

2. The documentary evidence in the sealed envelope submitted to the Court contains information respecting attempts improperly to influence Juror No. 12 through the efforts of one Larry Campbell, a business agent of Teamsters Local No. 299 in Detroit, Michigan.

Now, the Court is well appraised at this time of what was in the sealed envelope. It was a statement, affidavit of Partin, may it please the Court.

3. The information submitted in disclosed form with this motion corroborates and supports the documentary evidence in the sealed envelope which some of the evidence indicates "suspicious circumstances" necessary to effect a disqualification of Juror No. 12.

Then follows, may it please the Court, in this motion in this proceeding, allegations of every telephone call that has been testified to about in this proceeding. Item by item, station by station, and in the affidavit by Mr. Peters, and it sets out each phone call in whose name the phone was registered, the number that was called and the number received and in each instance it shows that the receiving party was unknown. It states whether or not the phone call was paid in cash or a credit card.

End Tk 20
Tk 21 fls.

Tk 21
Hl

The totality of the contents of this motion that was filed to which I now refer, and will attach to my memorandum and argument, sets out far more than has been introduced from this witness stand insofar as the Defendant Campbell is concerned and at the conclusion of that memorandum and on at least three occasions within the memorandum the allegation by the government is simply that these phone calls constitute, constitute suspicious circumstances.

Under Item 5, Page 8 of the motion, this statement is made after the summarizing of all of the phone calls and many other matters that is not in evidence here but after summarizing all of the phone calls, after summarizing the statements with reference to Brown's Guest House at the time he was there, Campbell was there, the phone calls that were made there, the statements that have been introduced in Court and then others that were not introduced in Court with reference to certain plane trips that were allegedly made by the Defendant Campbell, but has not been established because they were not true, but under Item 5 it says this information is the result of the investigation of the FBI, which is still continuing and is being brought before the Court's attention at this time so as to insure that the jury deliberations are not begun with a juror as to who there are suspicious circumstances.

The telephone calls referred to then item by item

that I have previously mentioned refers to them as "suspicious phone calls".

Now, may it please the Court, at that time, and at this time, there is no basis in our judicial procedure or the history of it or the history of evidence or the law of evidence that would entitle this honorable court to have anything other than the government had when it filed this memorandum and that would be that these phone calls were suspicious in character.

Well, suspicion in and of itself establishes no type of case in either a civil or a criminal proceeding. Under the law dealing with the subject of judgment of acquittal the government must have established a prima facie case as against the defendant making the motion.

If the government has not so established a prima facie case then it is the duty of the court to dismiss the indictment or to grant a judgment of acquittal to the defendant so moving.

So, insofar as the telephone calls are concerned, it is respectfully submitted, and the memorandum is more complete on that point, that there can be no inference whatsoever of a judicatory nature by this court that those phone calls are anything other than suspicion, to say the most. I think we can say that the Court may liberally engage in inference, if you properly define inference, and

there is still nothing there but a suspicion at the very most.

The second part of the evidence that dealt in any manner with the Defendant Campbell, and I assert to the Court that I have checked the record, and I believe the Court will find my references in here to be quite total and accurate because I have made an effort to put in any possibility of relationship to this defendant in order that the Court might have the matter directly in front of it and let's rule on the law and weigh the evidence, if any, to apply to this defendant on this particular motion.

I say that because it is of great importance, may it please the Court. We have sat here day by day now for more than two and a half weeks really and very little of the evidence could, unless we go into indulging in more than just presumptions as to what the law might be, has had anything to do with the Defendant Campbell.

He should not be required to answer nor should he be required or should I be required to sit here during proceedings if this Court, after looking at the record, after analyzing evidence, if there be any, then apply the law to determine whether or not it can be said that there is any proof in this record of a substantial character that could in any way tie the Defendant Campbell to the alleged offense in Count 3 of the indictment.

I have set out in a memorandum also the law

dealing with aiders and abettors under the Maurin case. The government has just failed insofar as Defendant Campbell is concerned to meet the test. Now, in all fairness, in setting out in complete understandable form the evidence that might be attributed to Campbell, we move from the telephone calls to the only other evidence that could be said to be directed against the Defendant Campbell.

Mrs. Brown testified that the Defendant Campbell once told her that he was going to Nashville and that he occasionally received phone calls on the pay phone in the lobby. This was Mrs. Brown's testimony of the Brown's Guest House.

The Court will recall that records were introduced to show that Larry Campbell was registered at Brown's Guest House during certain periods of time. This creates no inference.

The fact that Brown (Campbell) may have been registered at Brown's Guest House in Louisville can create no inference whatsoever. That, like the phone call, as long as any of the inferences that may arise from testimony is concerned, that if it is just as consistent with innocence as it is with guilt then, of course, the judgment for acquittal must be sustained.

The fact that phone calls were made, that Campbell was a guest at the Brown's Guest House during certain periods

and made calls, the fact that Ernestine Williams testified that phone calls had been made from certain locations, had been received from certain locations, does not require the Court nor may the Court appropriately say that such matters are just as consistent with innocence as they are with guilt. For example, the phone calls from one station to another station, if we admit for the purposes of argument were made totally by Larry Campbell at the times and places sought to be inferred that they were, there could be no inference, nor the fact that he stayed at the Brown's Guest House or made the calls as set out by Ernestine Williams, and I have set those out in the testimony with reference to this also in the memoranda and cited the pages of the transcript wherein it appears, no inference may be drawn that the Defendant Campbell was there engaged in some criminal act or aiding and abetting some other person in any conduct whatsoever.

The second proposition then being that if taking all of the evidence, and it has to be substantial evidence, no inferences can be drawn on an inference, it must be from a substantial evidence that the inference is drawn, if then the inferences that may be appropriately drawn from this evidence are just as consistent with innocence as they are with guilt, no more than suspicious circumstances, then the government has failed to make a prima facie case and it is the duty of the court to grant the judgment of acquittal.

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The third part of the evidence to which I now

End 21

turn is that of Partin.

22 fol.

I made a motion that Partin's testimony be stricken from the record insofar as Defendant Campbell was concerned. I think that that matter whether it be stricken or whether it be left in the record is really of no significance at all because that evidence is this, if it is evidence, it doesn't rise to the stature of recognized legal evidence in the first place as against any defendant, but at page 3284 of the transcript this is what was said, and I would like for the Court to note the lack of response but nonetheless it is in the record; question is this, was Mr. Steinberg present at that time? Answer by Partin, yes, I believe it happened Mr. Steinberg was there and I told Mr. Hoffa I was fixing to leave. He said he wanted to see me. To come in. And he motioned for Mr. Steinberg to go out. I pushed the door partway to. He told him the trial didn't look too good but he said not to worry because I have the male colored juror in my pocket. Mr. Hoffa said one of my business agents Larry Campbell came to Nashville before the trial and fixed it.

Now, may it please the Court, this is a statement that I think government counsel and anyone who will assert what is truly the law under any theory will state to the Court that that is not a statement admissible under this record insofar as Defendant Larry Campbell is concerned.

I have tried, I think, with mighty few exceptions

if any, not to assert a proposition before this Court that I did not believe was tenable. The Court might disagree. I am sure government counsel disagrees. But on each instance on this matter as well as others, I have sought to have some basis for making the assertion.

I find no rule of evidence and no law under Count 3 and this is what we must look to insofar as Defendant Campbell is concerned whereby the statement could be used for any purpose as against Defendant Campbell.

In the first place it is a statement as to a completed act or transaction that occurred prior to the allegations of the indictment, apparently as they are contained in Count 3 of the indictment and made by a third person out of the presence of this particular defendant.

And, therefore, would be totally inadmissible as against Defendant Campbell. The truth of the matter is, of course, and Defendant Campbell should not have to answer this, that he had not been in Tennessee for two years prior to this occurrence.

The government hasn't established that Campbell was in Tennessee under any theory. I have that listed in another part of the motion for judgment of acquittal in that and I might just pick it up at this point to make it have some annexis, but the government failed to prove venue insofar as Campbell is concerned. The venue must be laid in the

district with certain exceptions where the alleged offense was committed. There has been no proof that Defendant Campbell was ever in the State of Tennessee during this period and there couldn't be because he wasn't.

Secondly, there is no proof from the phone calls that he engaged in any activity that began in another state and ended in Tennessee.

So if you take any theory of the phone calls or the failure of the government to establish that Campbell was here in the State of Tennessee during this period then they have failed to prove venue insofar as this defendant is concerned. There is not one line of evidence that I can get from this record from which substantial in character from which the Court can say there is evidence that Campbell was in Tennessee or did any act that resulted in the commission of a crime aiding and abetting in Tennessee.

And if the government fails to establish venue as to a particular defendant, then, of course, may it please the Court, there can be no submission of the matter to the jury.

I apologize to the Court, I have been just about out of voice for several days, and the approach to this problem is not easy at this point because of that.

THE COURT: I want to hear you out. I will want to take your motion under advisement and will want to study

your memorandum.

MR. BRANSTETTER: It might be then that I could make --, could probably abbreviate the argument somewhat with that in mind, and would try, of course, to submit to the Court, I have designated this as a partial memorandum because of the time element, it may not be as complete on citations as to authority. Certainly I have only picked a case that would stand for a particular proposition without going through the digest and burden the Court with reading of a lot of cases that would be cumulative in character in that particular respect.

I would like to emphasize, if I may, this, may it please the Court, and also with retaining the privilege of submitting additional matter today because actually if, if there is no evidence in this record of a substantial character or from which evidence from which inferences could be drawn to establish the commission of a crime on the part of the Defendant Campbell, as alleged in Count 3 of the indictment, then it would grossly unfair for this defendant and his counsel, to be required to remain in the case where the government in the first instance has totally failed to establish a prima-facie case.

The jury under no circumstance is permitted to speculate. The jury under no circumstance is entitled to consider suspicious circumstances. This is extremely

important, may it please the Court, in a case of this sort. There are multiple defendants. Evidence has been introduced for more than three weeks now, and the Court has instructed the jury truly on many occasions that certain evidence was not to be considered against certain defendants.

This we have discussed and it has been argued at full length. I will not burden the Court with referring to the particular matters whether the jury may or may not be able to complete, may or may not be able to compartmentalize and distinguish where evidence is to be considered, nevertheless, there is evidence in this case establishing a prima-facie case against this defendant, then this defendant should be able to be permitted to go from this case at this time. Justice demands that. Reasonableness would demand that.

May it please the Court, we respectfully submit insofar as the Defendant Campbell is concerned the government has totally failed to make out a prima-facie case and as a matter of fact, I would assert this dogmatically that if this were a civil case based upon the evidence produced by the government at this point, under the law of this state, that there would be a directed verdict and that the matter would not be submitted to the jury in a civil case.

The liberty, the time, the expense, the trouble that is involved to a defendant in a criminal proceeding should be given certainly the weight of a property right.

MR. NEAL: May it please the Court, does the Court want the government to respond to that?

THE COURT: Well, let's get any other motions and any other motions defense may make and then the government may respond to any and all motions at the same time.

MR. HAGGERTY: May it please the Court, I am confining my argument entirely to a motion to strike on behalf of the Defendant Hoffa. Mr. Harry Berke will argue separately the motion for acquittal in behalf of the Defendant Hoffa.

THE COURT: All right.

MR. HAGGERTY: May it please the Court, we respectfully move the Court to strike the following testimony for all the grounds and reasons advanced during the trial and in addition thereto and without limitation, the generality of the foregoing, moves to strike the following testimony for the following reasons. Starting with the Witness --

THE COURT: (Interposing) Will this be a written motion or is this going to be an oral motion?

MR. HAGGERTY: I am going to file it, but there are portions of it which I want to argue.

THE COURT: All right. Sir, I just wondered how detailed notes will I need to make. Will I have a copy of the motion?

MR. HAGGERTY: You will have a copy and it is

quite a comprehensive motion.

THE COURT: All right.

MR. HAGGERTY: First of all, may it please the Court, addressing myself to the testimony of Andrew H. Mizell that before the Nashville trial terminated on December 23, 1962, jurors Mrs. James Paschal and Gratin Fields were excused and testimony that James Tippens was excused before the jury was sworn for the reason that this testimony is immaterial, highly prejudicial, and does not tend to prove or disprove any of the allegations contained in the government's indictment.

End 22
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As to the testimony of Mrs. Josephine Carlton.

THE COURT: Of who?

MR. HAGGERTY: Josephine Carlton, who was an office employee of Mr. Tippens, because it relates to Count 2 and it is hearsay and wholly immaterial to any of the counts relating to the defendants and there has been no showing of any connection between such testimony under Count 2 and not only Mr. Hoffa but any of the defendants.

I also move to strike the testimony, that portion of which was admitted by your Honor under limitation and restriction, be stricken for the same reasons I advanced in behalf of Mrs. Carlton, all of the testimony of the Witness James Walker, the police officer, because said testimony constituted hearsay.

There is no connection shown between such testimony and this defendant under Count 3, bearing in mind at all times that Mr. Hoffa is in the category and in the position created under the indictment of an aider and abettor and not of a principal.

For the further reason there was no showing of any unlawful consideration between Defendant Hoffa and Parks so that said evidence cannot be binding on the Defendant Hoffa.

The testimony of Carl Edward Fields because such testimony is not in any manner connected to this defendant

in Count 3 and is hereby hearsay for the additional reasons set forth in the paragraph that I have related above pertaining to the Witness Walker.

Now, as to the testimony of Mrs. Mattie Leath, because it is not in any way connected with the defendant in Count 3 and for the further reason that it is hearsay as far as it is related to conversations with the Witness Walker, who is neither alleged nor proved to be an agent of the Defendant Parks, and for the additional reasons that I have assigned in behalf of the Defendant Walker or the Witness Walker.

The testimony of William L. Sheets because of the refusal of the Court to permit the examination of this witness by the defendant to determine the existence of reports which the defendant would be entitled under Title 18, United States Code, Section 3500, and I say to your Honor I do not think by permitting at this late state of the proof that your Honor has cured that by permitting examination this morning.

The testimony of Walter J. Sheridan for the same reasons.

The testimony of Mattie Mix because of the Court's deprivation of the right of the witness to assert her privilege under the Fifth Amendment of the Constitution of the United States and for the further reason that none of the testimony of this witness was in any way connected with the

Defendant Hoffa.

Then we have a witness by the name of Madie Harris, who was a neighbor. Her testimony had no probative value with respect to any count in the indictment and did not tend to prove or disprove the allegations of any count of the indictment.

Now, we have a witness by the name of Niles Kitchen, he was a telephone man, and exhibits were introduced in connection with such testimony, becsuse of failure to lay a proper foundation and for the further reason that such evidence was incompetent, irrelevant and immaterial to any of the issues in the case.

We have two witnesses, Anna Brown, who was the proprietress of the Guest House in Louisville, and Ernestine Williams, who was a nurse from Louisville, for the reason that both of their testimony constituted hearsay and no relevance to any of the issues in the case and is not in any way connected with the Defendant Hoffa.

The testimony of the Witnesses J. J. Isaacs and Arthur Schneider, they were both telephone men, because a lack of proper foundation of the telephone records which they introduced as evidence because such evidence consitutes hearsay and because lack of relevance of such records to any of the issues involving the defendant.

Now, there are other witnesses, telephone

witnesses, Mary Myers, Richard Chichester, Frank S. Tulloss, Jr., and Robert Ray, they are all in the same category.

MR. NEAL: Ray is a photographer.

MR. HAGGERTY: Ray is a photographer. Thank you. And the first three named are all, may it please the Court, telephone employees and the reasons heretofore advanced, objecting to and asking to strike other telephone employees, the same reasons are advanced for these people, particularly the testimony of Robert Ray, a photographer. So far there has been no relevancy established in this particular exhibit, 84, to any material issue in the case and we further contend it should be stricken because said Exhibit 84 tends to prejudice the minds of the jury against the Defendant Hoffa.

Now, we have a group of FBI men, William M. Hobbs, Jr., J. Charles Still, William S. Turner, Francis W. Norwood, L. Welch and Marvin Eubanks, all had to do with the surveillance of the Defendant King.

We ask that that be stricken as far as the Defendant Hoffa is concerned for the reason and also the Government's Exhibit 86, which was introduced through Mr. Still, for the purpose of identifying Mr. King walking with Mr. Hoffa should be stricken for the further reason it is highly prejudicial and not relevant to any of the issues herein and their testimony has not been connected up with the Defendant Hoffa.

As far as the testimony of the Witness Pitts, Oscar Pitts, that such testimony has no relevance to any of the issues herein and has not been connected up with this defendant and constitutes hearsay as to this defendant.

Then we have the two witnesses, Joe Edward Zimmerle and Edwin E. O'Brien, who are employees of the L&N Railroad, that their testimony is not material or relevant to this defendant and constitutes hearsay as to this defendant.

Now, as to the testimony of Edward G. Partin, may it please the Court, we adopt all of the reasons set forth in the motion to suppress said testimony previously filed with the Court, two, because of the improper limitation of cross examination of the witness by the defendants and particularly relating to the matters disclosed in the secret session, because of the refusal of the Court to turn over to the defendants the notes and memoranda of Walter J. Sheridan, which were taken contemporaneously with Mr. Partin's admitted reports to Mr. Sheridan and which fall within the provision of the Jencks Act.

Because of the witness' evasive, non-responsive and highly improper answers, as well as the refusal to answer and the failure of the Court to properly direct the witness and reprimand him for his demeanor, evasiveness and equivocation on the stand.

Further, because of the refusal of the Court to

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turn over to the defendant the FBI statements which were based upon Walter Sheridan's reports, which were, in turn, based upon interviews with the witness, Edward G. Partin.

We further move to strike the testimony of Hazel Fulton, James T. Walker, Carl Fields, Jr., James Paschal, Oscar Pitts and Edward G. Partin, for the additional reason that all of the said witnesses admitted and confessed in open court making false statements under oath and committing perjury.

I specifically move to strike again the testimony of the Witnesses Kitchen, Isaacs, Schneider, Mrs. Myers, Chichester, Tulloss, Gallaspy and Gillen, they were all telephone employees, your Honor, for the reason that neither the registration of the telephone number in a defendant's name or the assignment of a particular credit card number to a defendant has any materiality or competency with respect to whether or not the defendant can, in fact, make or receive a telephone call.

End Tk 23
Tk 24 fls

I have concluded my argument and I will file a copy and I will serve Mr. Neal.

THE COURT: All right.

MR. SCHIFFER: Your Honor, on behalf of Defendant Parks may we file a motion adopting the arguments and the motion of Mr. Hoffa?

MR. ALEXANDER: We also request to adopt that on behalf of the Defendant Tweel.

THE COURT: All right.

MR. BROWN: As to the Defendant King we file a motion to adopt the arguments as set out.

THE COURT: All right.

MR. NEAL: Are all the people adopting, filing adoptions, is that it?

THE COURT: All right. Well, it is the opinion of the Court that the motion to strike the witnesses' testimony be overruled as to all defendants except as to the witness Mrs. Carlton. The Court will reserve at this time acting upon the motion to strike the testimony of Mrs. Carlton.

MR. SILETS: May it please the Court, I have just filed with the Court a motion to strike also on behalf of the Defendant Allen Dorfman.

THE COURT: All right.

MR. SILETS: I would like to say a few words.

THE COURT: All right.

MR. SILETS: I know the Court has made a decision now but I have adopted the motion filed on behalf of the Defendant Hoffa but as an additional ground or perhaps saying it in another fashion, we have sat here through three weeks of testimony and heard testimony relating directly to the Defendant Dorfman and on very few, in a very few instances, specifically if I would ennumerate them the only evidence which could be considered at all as being direct evidence against Mr. Dorfman is the testimony of Mr. Partin, the testimony of Mrs. Myers, the woman from the Illinois Bell Telephone Company, and perhaps the testimony of Hazel Fulton. All other witnesses do not relate to Mr. Dorfman whatsoever.

Now, for the moment I will satisfy myself in making my argument to the Court by adopting the argument of Mr. Hoffa as to the motion to strike the testimony of Mr. Partin.

As to the testimony of Miss Fulton again we have a situation where we would like to renew the objection I raised at the time that Miss Fulton never heard Mr. Dorfman's voice and has no basis upon which to predicate the assumption and that is all the Court can do at this time is assume that it was Mr. Dorfman who called.

The only evidence that could be used to corroborate that in any fashion are the toll cards that were

produced by Mrs. Myers the third of these witnesses, indicating ostensibly that a call was placed, charged to the credit card held in the name of Mr. Dorfman, to a phone number in the name of Mr. Tweel. The witness Fulton was not specific as to the precise date that it occurred. She couldn't testify precise date but in any event getting to the third of these witnesses, I again renew my motion to strike the testimony of Mrs. Myers and to strike from the evidence the toll cards themselves on the basis that no proper foundation has been laid.

Now, with respect to the remaining witnesses who in no fashion can be said to have offered either direct or indirect testimony against Mr. Dorfman, we can now come back to the original stage of this proceeding where the government has joined all of these parties together and has offered testimony with respect to each individual party seeking ultimately to have it reflect upon all others.

At the outset of the case and from even from the time of the pretrial motions, I had urged upon Judge Gray and upon this Court the proposition that the government could never ever produced any evidence to tie all these parties together so that the statements of one made outside the presence of the other or acts relating to one made or done outside the presence of others could be introduced in evidence against one another.

Now the government, Mr. Neal, made the representation to the Court that we would connect it up. Now I assume by observation of the government's brief filed yesterday entitled, government's memorandum of law with sufficiency of evidence aliunde to connect defendants with the endeavor alleged in Count 2.

And the proposition there urged in the third paragraph and in the very last paragraph it appears that the government is now going to suggest to the Court that the testimony of Mr. Partin is that cohesive element which will tie in all of the acts and statements of other defendants made outside of the presence of each other together so that it may all be considered one against the other.

Now, but for that fact, assuming setting that aside for the moment, but for the government's using of Mr. Partin's testimony there can be absolutely no basis whatsoever for permitting the jury to consider evidence on--, in our situation on Counts 2, 3, and 5 as it pertains to Count 4.

Or, and or, in the situation of Count 4, when there are statements or acts done by Mr. Tweel outside of Mr. Dorfman's presence that they be allowed in against him as evidence.

We are now confronted again with the time honored proposition of hearsay being used as an element of proof to convict one of the defendants, in this case Mr. Dorfman.

Now, the Court has given instructions from time to time. It has been our proposition that those instructions cannot do any good.

Now, in terms of the proof, it is our proposition now that the Court must strike and this is the basis and in addition to those cited by Mr. Haggerty, this is our proposition that the Court must strike all of this hearsay evidence because that cohesive bond has not been established. Now what has Partin testified to? Partin has testified and assuming the truth of that for the purpose of this argument although we don't concede the truth, Partin has testified to a number of acts and statements done by him in the presence of one or the other of the defendants.

Nowhere does the witness Partin have any statement made by him or to him in the presence of any other defendants. We have a situation then where the declarations of the alleged co-conspirators or agents of one another, are being used as the very basis for the establishment of the agency or the conspiracy.

Now, of course, this is precisely what the Supreme Court in Glasser versus United States, 315 U. S. 60 said was not the law. They said such declarations are admissible over the objections of alleged co-conspirator who was not present when they were made only if there is proof aliunde that he is connected with the conspiracy. The Supreme Court went on

there to say otherwise hearsay would lift itself by its own boot straps to the level of competent evidence.

Now, what the government is doing then is saying, well, if Ewing King had a conversation with Partin, outside of the presence of Dorfman, that conversation establishes somehow that King and Dorfman were part of a gigantic conspiracy. And similarly with Parks or with Hoffa, or any of the other defendants, that these conversations themselves establish the conspiracy.

Now, this is precisely what the Supreme Court says cannot be done. There must be independent proof. Partin's testimony nowhere establishes independent proof of the agency or the conspiracy. Each individual witness who has testified has testified exclusively to the declarations or the acts that were done with respect to a particular witness, a particular defendant, but not with respect to acts or declarations of all defendants.

Now, under the proposition of the Minter case which was cited--, which is a Tenth Circuit decision, 57 Fed. 2d 506, and was adopted by the Sixth Circuit in Continental Baking Company versus U. S. 281 Fed. 2d 137, a 1960 case, these rules concerning the bases for the admission of hearsay statements against other co-conspirators are precisely and sufficiently and precisely set out. Now, what the government does here, Your Honor, is try to tie everybody up into a

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gigantic conspiracy so that this evidence otherwise inadmissible against one would be sent to the jury.

Now, what I suggest to the Court is, that if the Court in its wisdom now concludes that this cohesive bond has not been established, then as to each respective defendant the Court must strike that part of the testimony and those exhibits which would otherwise be hearsay. There is no discretion in this matter. This is not a matter to be submitted to the jury for their determination. This is a legal decision that must be made by the Court on the basis of the competent evidence before the Court. The Court, if the Court concludes at this moment that the government has failed to tie up all of these declarations, and hearsay statements, then the government has failed to establish this entire conspiracy.

End 24

Tk 25 fol.

Tk 25-DC1

Now I assume the government will come back and say, "Well, we have established that all throughout all of this is one man, Hoffa."

Well, I think in Krulewitch versus United States or perhaps Shaffer versus United States the illustration is given in this fashion that when a single person is involved throughout he may be analogized to the hub of a wheel, all of the other acts and all of the other counts can be considered the spokes of the wheel but to connect up those spokes we must have a rim and the rim the government has submitted to the Court is the testimony of Partin.

Now, Partin nowhere ties up all of these spokes, all of these counts with one another, because each thing he says, each bit of testimony he gives, relates to a declaration itself which would be hearsay and which itself cannot be proved aliunde.

Now, the fact that there is a common person involved is not sufficient. There must be some outside or aliunde proof to tie everybody in together and there is no proof whatsoever along that line.

On those bases, your Honor, I suggest to the Court that the motion to strike is well founded, that the Court must strike if the Court finds, as it should find, that there is no such proof aliunde. There is not an issue to be resolved by the jury. This is an issue that the Court must

25-2

ascertain in its own wisdom whether there is a legal basis for the proposition going to the jury at all and that, your Honor, in addition to what has been urged by Mr. Haggerty, is our basis for a motion to strike.

In addition we wish to strike all of that portion of Mr. Partin's testimony and all documents received into evidence pertaining to Count 4 which occurred subsequent to November 30th, 1962.

If the Court will recall the testimony of Dallas Hall was this, that there was a conversation with -- he said there was a conversation with Mr. Tweel on November 30th, 1962, almost the last words of which were, "Well, just forget it," meaning whatever the government is alleging here Tweel sought to accomplish by contacting Hall, Tweel said, "Just forget it."

At that point if there was such a conspiracy Tweel has withdrawn and the Defendant Dorfman is nowhere afterwards shown by competent testimony to have continued in aiding or abetting in any conspiracy. He is only charged with aiding and abetting Tweel.

Now, if Tweel has withdrawn, it must be established that Dorfman, unless there is other evidence, to which there is not, that Dorfman also has withdrawn.

Now, it is a basic axiomatic proposition that once the conspiracy has ended or a conspirator has withdrawn

that any statements or acts by co-conspirators thereafter are inadmissible against the defendant.

Furthermore, all of the acts and all of the phone calls which have been alleged and urged and put into evidence here occurring following that date cannot have been in furtherance of the conspiracy, at least with respect to Count 4, because at the point that Tweel says, "Forget it," Count 4 has ended and for the government to then go in and introduce any kind of evidence in December or afterwards pertaining to Count 4 or which may pertain to Count 4 is beyond the scope of Minter versus United States and that is the last ground that we urge that the motion to strike should be grounded on.

Finally, your Honor, my attention has been called to the proposition which we have been discussing these last several days and that is I move now to strike any and all testimony, and specifically the testimony of Mr. Partin, as a result of the wiretapping or roombugging or other electronic -- mechanical or eavesdropping device that has been used by the government in obtaining a record of his testimony and that of any other witness.

Now, your Honor, I will have a motion for judgment of acquittal but I think perhaps somebody else would like to argue before me.

THE COURT: All right. I believe these motions

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to strike should be overruled. All right, gentlemen, are there any other motions?

MR. SILETS: I do have a motion for judgment of acquittal, your Honor.

THE COURT: All right.

MR. SILETS: May I have the Court's indulgence for a moment?

MR. ALEXANDER: If it please your Honor, could we take a recess for a few minutes at this time?

THE COURT: All right. Yes, we can take a recess. Take 10 minutes, gentlemen.

(Thereupon, at 2:45 o'clock, p.m., a recess was had.)

End 25
26 fls

(After recess, court was in session.)

MR. NEAL: May it please the Court, may the government interrupt at this point to file its response to the various motions of surveillance and so forth? We just wanted to file it and get it filed at the earliest possible moment?

THE COURT: Well, let's just proceed, Mr. Neal. Do that some other time.

MR. NEAL: Very well.

THE COURT: I will file with the Clerk at this time the sealed Exhibit No. 154, the memoranda of the funds. All right, Mr. Silets. Now, gentlemen, I want to hear all of you on any motions you have, but we will want to complete oral arguments today and I will stay until whatever time it is necessary to do that.

(Document sealed exhibit referred to above was marked for identification as Exhibit No. 154.)

MR. SILETS: Your Honor wants us to complete all oral argument today?

THE COURT: Yes, I think we shall want to do that.

MR. SILETS: I filed with the Court the motion of the Defendant Allen M. Dorfman for judgment of acquittal. It is essentially, your Honor, the basis as the Court well knows the basis for granting of motion for judgment of acquittal is that the Court must view the evidence and the

inferences which may be justifiably drawn therefrom in the light most favorable to the government.

That proposition is set out in United States vs. Berkely, 288 Fed. 2d 713. Under this proposition of law, the Court is confronted with an anomaly situation when the Court feels that there is substantial evidence, he must submit the case to the jury and the jury is to apply beyond a reasonable doubt the yardstick even though the Court may at this time feel in the Court's mind that no reasonable man could find the defendant guilty beyond a reasonable doubt.

This anomalous situation results from the fact that the test of sufficiency of evidence is the same in both a criminal case and a civil case whereas the burden of proof and the instructions differ in a criminal case from that of a civil case.

As a consequence, some of the circuits have gone so far as to say we will modify this substantial evidence test and in those situations where the government's case relies upon circumstantial evidence, the test that is applied is that unless there is substantial evidence of facts which exclude every other hypotheses but that of guilt it is the duty of the trial judge to instruct the jury to return a verdict for the accused.

I point out to the Court Allinger vs. United States, Eighth Circuit case, 23 Fed. 2d 48, at Page 52.

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Of course, the position of the defense is that the sound view to be applied in this particular instance is the latter view that a substantial evidence test excluding every hypotheses but that of guilt.

In this particular situation, of course, I am discussing the charge against Mr. Dorfman. The charge against Mr. Dorfman is not that which can be charged against any other defendant except Mr. Tweel, and Mr. Hoffa, as far as it applies in Count 4, because here the specific portion of Title 18, Section 1503, which is applicable is this language: Whoever corruptly influences, obstructs, or impedes or endeavors to influence, obstruct or impede the due administration of justice shall be punished, and so forth.

The charge, therefore, is the general charge of the language of the statute to corruptly endeavor to obstruct the due administration of justice. All the other counts in this indictment relate to the impeding of a particular juror. The charge in Count 4 is the impeding of the due administration of justice.

End Tk 26
Tk 27 fls.

Now, with the Court's indulgence, Count 4 states, "That in or about the month of November 1962, in the Middle District of Tennessee, Nashville Division, Nicholas J. Tweel, James R. Hoffa, and Allen Dorfman, defendants herein, James R. Hoffa and Allen Dorfman aiding, abetting, counseling, commanding, inducing, and procuring Nicholas J. Tweel so to act, did unlawfully, knowingly, wilfully, and corruptly endeavor to influence, obstruct, and impede the due administration of justice in the trial of United States of America versus James R. Hoffa and Commercial Carriers, in the District Court for the Middle District of Tennessee, Nashville Division, in that," here are the particulars of the charge, "Nicholas J. Tweel did offer and promise money and things of value to Dallas Hall for the purpose of inducing Dallas Hall to communicate with, and to cause others to communicate with, petit jurors serving in the said trial with respect to the votes, opinions and decisions of the said jurors in the said trial. Violation of Sections 2 and 1503 of Title 18."

Consequently, for this motion the Court has two problems, two issues are presented. First, is it a corrupt endeavor within the meaning of Title 18, U. S. Code, Section 1503, as specifically charged in this indictment to induce someone to communicate with and to cause others to communicate with petit jurors by offering a benefit to that someone in order to have the offeree find out what he could about "the

members of the petit jury in a federal criminal case or check it, that is, the jury."

Now, the quotations I have stated in setting forth this issue are specific words spoken by Mr. Hall when he testified.

Now, the second aspect of the issue presented to the Court is if a person who is charged with this corrupt endeavor within the meaning of Section 1503, that is, Mr. Tweel, by offering things of value for the purpose of the offeree, Dallas Hall, or some other, to so communicate with a petit juror, has himself not committed a crime within the meaning of Section 1503, can someone who has been charged as an aider or abettor nevertheless be found guilty?

Now, taking the last proposition first, it is our position that if no crime was committed by Mr. Tweel then Mr. Dorfman, and in the same situation is Mr. Hoffa, Mr. Hoffa and Mr. Dorfman as aiders and abettors could not under any circumstances be convicted of any crime.

Now, just as an aside in yesterday's argument Mr. Neal assumed this to be the law, and it is the law, and I direct the Court's attention to page 5015 where a discussion where Mr. Neal was discussing the testimony of Tippens with respect to Medlin and he said, "We have to show the approach before we can show anyone aided and abetted before the jury can so find." And it is true here, too, that the government

must show the commission of the crime, a crime by Tweel, before Dorfman or also, in this Count 4, Hoffa, can be convicted of aiding and abetting in the commission of a crime.

There is authority for this, Morgan versus United States, 159 Fed. 2nd 85, Johnson versus United States, 195 Fed. 2nd 673, and there are other cases, but under any test, no matter which test we use, either the sufficiency of substance or sufficiency of evidence test, which excludes every hypothesis but that of guilt, we submit to the Court that the evidence submitted to the Court and jury fails to establish the commission of a crime under the facts in the indictment charged in Count 4.

Now, on January 18th of this year in pretrial the government filed with the Court its pretrial memorandum where it set forth its theory of the scope of Section 1503. The government in that brief conceded that the Defendants Parks, Campbell, and King were charged with separate endeavors "to influence, intimidate, and impede petit jurors."

While they said the Defendants Dorfman and Tweel were charged with an endeavor to influence, obstruct, and impede the due administration of justice, in the government's argument on pages 8 through 11 of that brief, they conceded, "The indictment does not charge that this conduct constituted a corrupt endeavor to influence, intimidate, or impede petit jurors but rather that it amounted to the more general events

of a corrupt endeavor to influence, obstruct, and impede the due administration of justice."

End 27
28 fls

The conduct to which the government aluded in this brief was the attempt to induce Dallas Hall to take some action with respect to the petit jury.

Now, I will discuss that further on when I get into the testimony of Mr. Hall. But going on in this brief on Page 9 the government said that the indictment does not charge that any particular juror was contacted nor even that Hall communicated with anyone who was related to a juror or was otherwise friendly to a juror.

The government said in its brief the bare legal question, therefore, is whether the attempt to induce a third person, here is the important part of the government's brief and is the crucial part of my argument, the bare legal question, therefore, is whether the attempt to induce a third person to communicate with jurors--, I will emphasize that--, to communicate with jurors suffices to make out a violation under section 1503.

Thus, the government has squarely pointed out the precise failing in the nature of its proof. Assuming for the sake of argument at this point that the mere endeavor to communicate with unnamed jurors without anything more having occurred constitutes an offense under Section 1503, the issue then is of the proofs here introduced in this case be sufficient under any evidence test for the purposes of this motion to make out such an offense.

To then, therefore, to effectively analyze the proof on this matter, the sole and exclusively relevant testimony offered in support by the government of this proposition is the testimony of Dallas Hall. The offeree to whom the defendant Nicholas Tweel allegedly made the offer of "Thing of value".

However, what was Dallas Hall asked to do? Hall was requested to do a corrupt act with respect to the jury and assuming arguendo that the bare request itself is sufficient to make out an offense under Section 1503 then perhaps the government has established an offense for the purpose of this argument,

However, we submit from the testimony of Dallas Hall it is patently obvious that he was never requested to do anything of a corrupt nature with respect to the jury, and most importantly, Hall was never asked by Tweel as was charged in the indictment to communicate with or cause others to communicate with petit jurors.

Hall testified that he was a bartender who operated a lounge in Nashville, Tennessee known as the Sportsman's Bar. He testified that the Defendant Tweel was brought to his bar by an employee of the Andrew Jackson Hotel. Further at that time some three men and two ladies. We never found out who the three men were and I'm sure the government does not infer that it was Mr. Dorfman. It was sometime after

midnight in the latter part of October according to Mr. Hall's testimony after the trial of U. S. versus Hoffa had begun that Hall had a conversation with Tweel at the Sportsman's Bar and they "just talked horses".

And some three or four weeks later Nicholas Tweel called him on the telephone the conversation as testified to by Dallas Hall is as follows:

"He asked me to do him a favor. Wanted to know if I could do him a favor. I said, well, it depends on what it is. I don't know. I can't condemn myself. I don't know what you want me to do. Might not can do it. And he asked me if I was familiar with the Hoffa trial and I told him just what I heard was all. I wasn't interested in it. And just what I heard over the radio, TVs, people discussing it which everybody was talking about it, but I wasn't interested in it. He said if there was anything I could do it would be worth something to me or to the other party either."

This is the precise language. Then Mr. Hooker said, "All right, was that all of the conversation? What else did he say at that time? Answer: I told him that I didn't know anybody. Question: Know anybody where? Answer: That was connected with it or anything. And he wanted to know if I could look around. I said, yes, I will check it. I will check it out for you. That was about all that was said at that time."

Tweel according, assuming for the sake of argument and this motion all inferences in favor of the government, Tweel called the second time and said:

This is Dallas Hall testifying. "He wanted to know if I had done anything or if I had found out anybody that could help out and I told him I didn't know of anybody. I didn't know of anybody that knew of anybody. And he asked me had I seen the jury list or heard of it? I said I heard them talking just people and over the radio. I heard of it, some of the cities there around Middle Tennessee where they were from but I didn't pay any attention to any of the names as I wasn't interested in it. He wanted to know if I could check on it for him. I said, Yes, I will drive around and check on it for you. And so he said I will give you, have you got a list of the jurors? I said no, sir. I said give it to me right quick and I didn't leave the telephone and he called a few of them off right quick and I, so I said, you are a little bit too fast and I had to be able to write shorthand real good to have gotten it anyway. He finished them up and said he would check with me later."

Then Tweel called a third time according to this testimony. And this is Hall.

"He called the third time and wanted to know if I had found out anything and I told him I hadn't and that I drove all over the place and I couldn't find nothing that

could help out any and it was a very short conversation.

"Cross Examination by Mr. Alexander. Question: Did Mr. Tweel ever tell you to contact anybody on that jury?

"Answer: Personally?

"Question: Yes, sir.

"Answer: No, he didn't."

Then later on, "Question: But you never did contact anybody?

"Answer: I never did.

"Question: And no specific name was ever given you to contact?

"Answer: No."

Now, on direct examination by Mr. Hooker, Mr. Hooker said:

"Question: Well, you do know, well, I misunderstood you, I started to say you did. Now, were you asked by Mr. Alexander whether you were asked to contact or to see personally any member of the jury, did you know any members of the jury?

"Answer: No, sir.

"Question: You were not then given any directions to see any of them personally?

"Answer: No, sir."

MR. HOOKER: Question: What were you told in that connection?

"Answer: Well, just find out what I could about them. Just find out what I could about them."

Now, going back for a moment the indictment says to communicate with the jurors or cause others to communicate with. This is the totality of the testimony of Mr. Hall. The most that can be inferred under any circumstances is that he was asked to find out about the jurors. There is an equal inference to be drawn from this of innocence as that of guilt. Inferences that are to be drawn for the purpose of this motion or inferences, for examples, where a telephone toll ticket is submitted which shows the name Dorfman and a call to Tweel. The court may for the purposes of this motion draw the inferences that in fact Dorfman made the call but the Court is bound by the testimony of this witness, this is direct evidence, "Question: What were you told in that connection?

"Answer: Well, just find out what I could about them."

About them. Not as charged in the indictment to communicate or cause others to communicate.

End 28

Tk 29 fol.

Now, no other evidence was offered on behalf of the government to establish just what Mr. Tweel had asked Mr. Hall to do, that is, what the endeavor was within the meaning of the statute.

From the testimony that I have just read to the Court it is apparent that the government's proof is completely failing in establishing a corrupt endeavor on the part of Mr. Tweel. It is also apparent that although the testimony of Hall refers to "another party", the proof is completely and unalterably deficient in establishing that what, if anything, the other party was to do in order to get the something which Tweel allegedly promised Hall and the other party.

There is nothing in the record to indicate who this other party was or what the other party was to do as to Hall's personal participation in the affair.

It is clear from Mr. Hooker's own redirect examination of the witness that the only thing that Tweel asked him to do, or can reasonably be inferred that Tweel asked him to do, was just to find out what he could about them. Find out about them.

The issue thus resolved, your Honor, is can the government be held to have made out a prima facie case under any substantial evidence or substantial evidence which excludes every other hypothesis but that of guilt test upon which a motion for judgment of acquittal can be granted?

The answer must be resolved as no for otherwise such an innocuous request as was allegedly made by Tweel to Hall could cause innocent acts to become criminal ones, for otherwise such unobtrusive references could later be held to be endeavors, to communicate with and to cause others to communicate with petit jurors in violation of this section.

Now, in the government's memorandum in support of its position on the scope of Section 1503, it relies on three cases to establish that the attempt to induce the third person to communicate with, again this language, an attempt to induce a third person to communicate with jurors suffices to make out a violation under section 1503.

Of course, the proof here doesn't even make out the case where there was an attempt to induce a third person to communicate with jurors for Hall's testimony does not go that far, but for the sake of this argument it becomes important to analyze these three cases, they are Caldwell vs. U. S., Knight vs. U. S. and Anderson vs. U. S. Each of those cases, your Honor, can be distinguished.

In Caldwell the government stated in its brief, "The defendant was charged with offering money to someone in order to have the offeree speak to the juror in a pending criminal case and 'keep him posted.'"

The government said in its brief, "It appears from the decision, however, that the Court unanimously

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agreed that the mere delegation of an agent to sound out jurors, if done with improper motive, even if no juror actually is contacted, was a violation of Section 1503."

Now, that is the government's position, contacting a person just to sound out or to communicate with jurors constitutes a violation of the statute.

I don't, I don't go that far and I will argue that in a few moments, but even assuming the best of the government's position, there is no proof in this record that Hall was asked to communicate with or, as the Caldwell case said, to sound out jurors.

In Knight vs. United States and in Anderson vs. United States, the other two cases cited by the government, the party charged with the offense under Section 1503 in each case were sought to do a corrupt, a corrupt act with respect to witnesses to testify in the trial of the lawsuit.

In Knight the government in its brief says that count related to an offer which the defendant had made to a barmaid employed by the prospective witness whom the defendants sought to induce to place a bottle of moonshine whisky in the witness' bar, since the witness was on probation the defendant hoped that the discovery of the whisky would cause the witness to be incarcerated, and in Anderson vs. United States the government in its brief, and I am citing the government's language, "The two defendants were charged with having

corruptly endeavored to impede the due administration of justice in that they did agree and promise in exchange for $500 that they would alter the testimony of one of them and have another material witness in a forthcoming trial have the payor, a doctor who had been indicted for a narcotics offense."

However, in this case, the proof submitted by the government in this case, the government has not established that Tweel, through his conversations with Hall, endeavored to have Hall do a corrupt act. To ask Hall to find out what he could about the jury without anything more being suggested cannot, under any circumstance, be considered a request of Hall to do a corrupt act and unlike Caldwell, the only case that the government can even come close to this, finding out about a jury as was said by Mr. Hall is not the same as speaking to them or sounding them out as it was in the Caldwell case.

If the Court should conclude differently on the facts of this case then every investigation of a juror's background, either by the defense or by the government, would constitute a corrupted endeavor to impede the due administration of justice.

It is axiomatic that in attempts by some persons in some circumstances to ascertain or learn about the background or find out about jurors cannot be considered a

corrupt endeavor. Under these circumstances it cannot be considered a corrupt endeavor.

Now, the final proposition, your Honor, is that urged by the government that the proof submitted under Count 4 establishes the commission of a crime, even though the offeree, Dallas Hall, never intended to accept the offer, never intended to see a particular juror, even to find out about them, is the language he used, never even wrote down the list. Can this constitute a corrupt endeavor to impede the due administration of justice?

Now, prior to the enactment of Section 1503 these kind of efforts were punished by contempt of court. One of the leading subjects on this proposition was a case entitled United States vs. Carroll, 147 Fed. 947. The fact situation was very clearly similar to that of this case.

There a person approached by the defendant who was interested in a coming criminal case was approached with a list of names which were presumably the names of the jurors impaneled for the case.

He was asked whether he knew of any way that the defendant could get at one of the persons listed, to which the person replied that he did not and where the defendant, after handing such person the list, requested him to do what he could for the defendant and said that if he would do so he would be remembered and the favor would be reciprocated

at any future time when necessary.

It was held in that case that the defendant had not obstructed or impeded the due administration of justice within the meaning of the federal statute governing contempts in such a fashion that would result in a contempt.

End Tk 29
Tk 29A fls.

The Court said, and if I may quote, "It was an endeavor which in no way reached or influenced a jury and therefore tended in no way to impede justice or the administration thereof. If the endeavor had been directly with the jury or a member thereof, then it would have reached the mark but an effort to get a third person to act who declined stops short of a misbehavior that is effective to obstruct or impede or to hinder its administration."

Your Honor, I have cited a couple of state cases which hold to the same proposition in essence where the endeavors stop short then there is no corrupt endeavor to impede the due administration of justice.

Here there is no evidence that Hall not only did not go forward, never had any intention of going forward, it would be the same as this illustration, if I were to call--, if I were to walk along the street in this case and say, "Boy, I sure would like to influence a juror to vote for acquittal here."

And the party to whom I am speaking says, "I wouldn't do it."

And I would say back to him, "Well, it sure would be worth something if you or anybody could get in touch with one of these jurors."

And the other party says, "Forget it."

Under this theory of the government I have committed

an offense, I have impeded and endeavored to impede the due administration of justice.

Now, that is ridiculous and this is exactly the proposition we have here. Hall never sought to do anything, never intended to do anything, never had a receptive mind to do anything, and yet the government will go one step further from an actual approach. The government wants to go to the step saying that the mere communication, the mere talking to this man in itself constitutes an obstruction of justice. This is novel and far fetched.

The only case that the government can come anywhere near to this proposition is the Caldwell case, which is distinguishable from the facts in this situation.

End 29A

Tk 30 fol.

Every case that has ever been cited and that the government has ever cited to this Court on this proposition involves an actual effort as to a particular juror, or an effort which falls short of its mark but which is in fact made from the communicant to the prospective juror to a prospective witness. There is no case which is squarely in point here.

And which support the government's position.

There are state court cases which I have cited and which I will hand up to the Court which support our position that when it falls short of the mark, when the words even if we were to assume that the words spoken by Tweel were corrupt words seeking a corrupt motive, when those words fall on deaf ears that there is no due administration of justice being obstructed.

Your Honor, if the government has proven anything it is an offense which the defendants are not charged with. If they have proven anything they have proven that there might have been an attempt but if the man Nicholas Tweel assuming for the sake of this argument, the worst, that everybody put their heads together, and that they wanted to obstruct justice, assume that being the fartherest and the worst thing that can be assumed for this basis, the worst, taking that step, we must go to the next step, and say either through their ineptness, through Tweel's ineptness, or what-

ever, or his backing-out at the last moment, he never asked Hall to do what he was charged in this indictment of asking Hall to do.

And the testimony of Hall is clear. It is clear beyond any doubt. There aren't any inferences that can be drawn because this is direct testimony, find out about them. Not to communicate -- not as charged in the indictment, to communicate with the petit jurors or cause others to communicate with the jurors, but to find out about them. If that is a crime, every time there is an investigation of jurors, find out about their background, that is a crime. And every lawyer who has ever practiced law, including the government, have been guilty of obstructing the due administration of justice under Section 1503.

Your Honor, the government has sought to convict these men under Count 4 on the motion, remote, most far-flung theory of law. Your Honor, under any inference and especially under the test of substantial evidence excluding every hypotheses but that of guilt, your Honor must under the proofs here grant a motion for judgment of acquittal.

Now, your Honor --

THE COURT: (Interposing) Do you have a memorandum?

MR. SILETS: Yes, sir, I have a memorandum to which I have attached the full testimony of Dallas Hall.

THE COURT: All right.

MR. SILETS: Thank you, your Honor.

THE COURT: Yes, sir.

MR. ALEXANDER: May it please the Court, shall I read the motion or just briefly state what it is?

THE COURT: If you will, state the motion and hand a copy to the Court, please.

MR. ALEXANDER: All right, sir.

May it please the Court, at the conclusion of the government's case in chief comes the Defendant Nicholas J. Tweel and respectfully moves the Court to grant judgment of acquittal upon the following grounds and each of them.

One. No evidence has been presented on behalf of the United States against the defendant whereby it has been made to appear that this defendant did offer and promise money and things of value to Dallas Hall for the purpose of inducing said Dallas Hall to communicate with or cause others to communicate with petit jurors serving in the trial of the United States versus James R. Hoffa and Commercial Carriers, Incorporated, as in the fourth count of the indictment alleged.

Two. No evidence has been presented from which it could be found that this defendant promised money or things of value to the said Dallas Hall for the purpose of causing the said Hall or any other person to communicate with any

petit juror with respect to the votes, opinions, and decisions of the said jurors in the said trial of the United States versus James R. Hoffa and Commercial Carriers, Incorporated.

Three. No evidence has been presented from which it could be found that this defendant did unlawfully, knowingly, wilfully, and corruptly endeavor to influence, obstruct, and impede the due administration of justice in the trial of the United States versus James R. Hoffa and Commercial Carriers, Incorporated, as in the fourth count of the indictment alleged.

Four. The evidence introduced by the prosecution against this defendant tends at most to show that he was engaged in a criminal conspiracy to obstruct justice rather than that he was guilty of a substantative offense of endeavoring to obstruct justice which is the charge under the fourth count of the indictment.

Five. All of the evidence presented by the prosecution with respect to this defendant and things and matters charged against him is to the affirmative effect that this defendant did not offer and promise money and things of value to Dallas Hall for the purpose of inducing Dallas Hall to communicate with and cause others to communicate with the said petit jurors serving at the said trial with respect to the votes, opinions, and decisions of the said jurors in said trial.

Wherefore the defendant, Nicholas J. Tweel, tenders this his motion for a judgment of acquittal at the conclusion of the government's case and said defendant attaches a memorandum in support of said motion.

Now, if it please your Honor, the memorandum will be handed in containing all of the authority.

At the beginning may I say, your Honor, that the argument of Mr. Silets is adopted, of course, on behalf of the Defendant Tweel because of necessity many of the citations which he gave and much of the testimony which he covered also apply to the Defendant Tweel and all of his argument did apply to Count 4 of the indictment.

Now, for the purpose of focusing attention on the several aspects of the weaknesses of the government's case against the Defendant Tweel, the question presented by his motion for a judgment of acquittal can be stated in one simple sentence and that is, is there any evidence which taken with all reasonable inferences to be drawn therefrom would justify submission of this Defendant Tweel's case to the jury?

It is that simple, one sentence.

Now, the nature of the question, the very nature of it, of course, makes it necessary to include some recapitulation of the testimony offered against Tweel. The nature of the motion also requires that every reasonable

intendment and inference be drawn in favor of the government and against the defendant. It is necessary to concede for the sake of argument that reasonable minds might draw inferences from testimony which would in fact not reasonably be drawn from such inferences.

Now, with this preliminary statement of the ground rules respecting a motion for judgment of acquittal the testimony against the Defendant Tweel in the worst possible light for the purpose of this motion could be summarized briefly as follows.

Nicholas Tweel was interested in the trial of the United States versus James R. Hoffa and Commercial Carriers, Incorporated. In late November of 1962 there was a conversation between himself and Allen Dorfman and during that conversation one Hazel Fulton took down a list of names and addresses, "rural routes and small towns in and around Nashville, Tennessee," that is transcript page 2357."

From the names, addresses, and occupations we will infer that this list of some 18 to 20, I believe in one case they said 24 names was of the petit jurors serving in the case United States versus James R. Hoffa and Commercial Carriers.

Two. During the latter part of 1962 Nicholas J. Tweel had met one Dallas Hall, transcript page 2485. He did not during the 30 or 40 minutes' conversation with Hall

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mention the Hoffa trial jury according to the testimony of Hall.

On a subsequent telephone conversation with Hall Tweel said to Hall that, "If there was anything I could do it would be worth something to me or to the other party either whereupon Hall told Tweel that he didn't know anybody but that he could look around and check it. I will check it out for you." That was Hall that was said at this time.

Transcript page 2492.

Further that a person identifying himself as Tweel with a very similar voice called Dallas Hall "a couple of other times," and gave him a list of the jurors.

At this point in the argument of this motion we will draw the inference that the jurors were those actually serving in the Hoffa-Commercial Carriers case.

End 30
31 fls

Number three. In continuing with our inference in favor of the government, Tweel asked Hall whether he knew anyone on the jury list. Transcript Page 2496.

Number four. The Defendant Tweel did not ever tell Dallas Hall to contact anybody on the jury trying the Hoffa case. Transcript Page 2503.

Dallas Hall never contacted anyone on the jury. The witness Hall was questioned, and I don't want to be repetitious, but this is so important to the Defendant Tweel's case that I do want to quote just two very short parts of the testimony of Mr. Hall on cross examination at Page 2503.

Question to Mr. Hall, "Question, Did Mr. Tweel ever tell you to contact anybody on that jury, any of those people?"

That's at 2503, Your Honor, in the middle of the page, "Did Mr. Tweel ever tell you to contact anybody on that jury, any of those people?

"Answer: Personally?

"Question: Yes, sir.

"Answer: No, he didn't."

And dropping down to the bottom of the page, Line 22, "Question: But you never did contact anybody?

"Answer: I never did.

"Question: And no specific name was ever given

you to contact?"

And at the top of 2504, "No".

Now, that is one excerpt and while Your Honor is referring to the record I would refer you back, if it please the Court, to Page 2515 upon redirect examination by Mr. Hooker on this very point when Mr. Hooker nailed it down strong, at the top of 2515, redirect, "Question: You did not." Now, that's in reference to another matter.

"Well, I misunderstood you." That was in connection with whether or not he had reported it to an officer.

"I started to say you did. Now, you were asked about by Mr. Alexander whetheryou were asked to contact or to see personally any member of the jury. Did you know any member of the jury? "

And Hall answered, "No, sir."

"Question: Youwere not then given any direction to see any of them personally?

"Answer: No, sir.

"Question: What were you told in that connection?

"Answer: Well, just find out what I could about them."

Now, if it please Your Honor, they are the substantive--, they are the acts upon which the government bases their case against the Defendant Tweel.

Now, while we are discussing the testimony most favorable to the government I also want to mention Mr. Partin's testimony.

Partin overheard or was a party to several conversations involving the charges under Count 4. In the first of these conversations on October 22nd, 1962, Partin said, this is at Page 2963 of the transcript, "Tweel said that Mr. Dorfman had called him and told him that it would be a personal favor to him if he would come down to Nashville and help him set up a method to get to the jury."

The next event which Mr. Partin testified to occurred on November the 28th, 1962 when he said, "He," meaning Dorfman, and this is at page 3331 of the transcript, "He asked whether I contacted Mr. Tweel and see if he had heard anything from the fellow Hall. So I called and I talked to Mr. Tweel. Mr. Tweel told me that he needed a jury list in order to read off to him so he could contact the people."

Finally Partin testified to a conversation that he had with Tweel on December the 14th of 1962 when he said, quoting Tweel,and this is at Page 3375, "Things are hot down there. They know all about the phone calls. They know all about the conversation at the train station from the pay phones and O'Brien's Beefery. They have inside information on every move we have made. We can't afford to fool with it. He told me to pass word to them." And this is quoting

31-4

Partin, "He told me to pass word to them that he was going to have to get out of it, that it was too hot for him, that this Dallas Hall, he said he didn't want any part of it, that it was just too dangerous to touch."

I am having to use some government water at this stage if it please the Court. It may stop me up but I will try to keep going.

MR. NEAL: Your Honor, in view of some of the allegations made against the government, if they were sincere, if I were Mr. Alexander I wouldn't drink it.

End 31

31A fol.

Now, Partin made other references in his testimony to this defendant, however, it is believed that these passages which were quoted were the most damaging to the Defendant Tweel and the most favorable from the standpoint of the government and, as I understand the purpose of a motion for acquittal it is like a demurrer, you present the very best on the other side that you can.

Now, the affirmative testimony offered by Dallas Hall is that Nicholas Tweel sought information about the jurors and Tweel did not ask Dallas Hall to communicate with any third person or any juror. There is no suggestion that the "some other party" to whom it might also be "worth his while" ever existed and there is no suggestion that either Tweel or Hall ever asked any third person to communicate with any juror.

In order to scramble up a conceivable theory upon which the government might insist that the charges has been made out it is necessary to draw some plainly improper inferences or conclusions from the evidence. These inferences would be improper, even though there was a presumption of guilt rather than a presumption of innocence standing in favor of the Defendant Tweel.

The government's theory, the inference supporting that theory, must go something in this line:

1. Tweel wanted to be of assistance of Dorfman,

therefore, he wanted to help Hoffa.

2. Since he wanted to be of assistance and he was interested in helping Hoffa he, therefore, intended to commit an unlawful act.

3. After the trial had been in progress for almost six weeks Mr. Dorfman gave Mr. Tweel a list of jurors and Mr. Tweel accepted this list, not for a lawful purpose, the obtaining of information about the jurors, but for some unlawful purpose.

4. Thereafter Tweel read the list of jurors to Dallas Hall, not to ask, as Hall testified, whether Hall knew anyone on the jury, and that was his testimony, since that would be a legitimate inquiry, but in order to ask Hall to communicate with a member of the jury.

5. Even though Hall stated to Tweel that he did not know anyone on the jury and has testified that Tweel did not ask him to contact a single juror, still since Tweel wanted to help Hoffa, and it is to be inferred illegally help Hoffa, then Tweel's statement to Hall that if Hall could do anything to help it would be worth his time is the equivalent of a request that Hall "communicate with and cause others to communicate with petit jurors serving in said trial with respect to the votes, opinions and decisions of the said jurors in said trial," which is the language of the statute.

Therefore, the government reasons that Nicholas Tweel "did unlawfully, knowingly, willfully and corruptly endeavor to influence, obstruct and impede the due administration of justice in said trial."

Now, that is the only conceivable theory that the government could have in this case.

Now, it is believed to be unnecessary, your Honor, to demonstrate that the inferences necessary to the government's theory are not in law available to the prosecution. The presumption of innocence does not, upon motion of a judgment for acquittal, become a presumption of guilt. While unreasonable inferences in favor of the government and against the defendant are necessarily to be drawn, still an act innocent of itself is not to be inferred to be unlawful merely because the act is examined by the Court at the conclusion of the government's case. In this regard it would be well to concede that the testimony of the Witness Partin tends to show the existence of a state of mind, a criminal intent, on October the 21st, 1962. It does not show that this same intent existed a month later.

End Tk 31A11
Tk 32 fls.

It does not show any criminal act committed in a corrupt endeavor to obstruct justice. It can be said to indicate an agreement to obstruct justice which would perhaps for the sake of argument only constitute a criminal conspiracy but not a substantative offense.

Even if it is assumed that the government's theory is supported by the fact the defendant has not within the meaning of 18 U. S. Code, Section 1503, corruptly endeavored to influence, obstruct, or impede due administration of justice.

18 U. S. Code at Section 1503 is a criminal statute and as such is to be strictly construed in favor of the defendant. The Ninth Circuit in the case of Etheridge versus United States, and there is no need for your Honor to copy this because I will have it in the brief which I will submit, 258 Fed. 2nd at 214 reviewed several decisions construing the word endeavor and, if it please your Honor, endeavor is the most important, single word in this statute insofar as the Defendant Tweel's case is concerned.

The Ninth Circuit in construing the word endeavor in the Etheridge case as used in this very section, concluded as follows, and I want to quote one small paragraph from that case.

"This case in Cantino versus United States, 176 Fed. 2nd 886 and 884 held in legal effect that in order for

an endeavor to come within the ambit of a statute similar to the one here involved, 1503, the defendant's act must have been directed at and/or brought to bear upon some person who had legal authority to do or not to do some act which would or could effect the final outcome of the trial."

Now, there is a construction by the Circuit Court of Appeals of this very word endeavor and I would like to repeat it because I think it is so important. And this is construing endeavor in this very statute, 1503.

"The defendant's act must have been directed at and/or brought to bear upon some person who had legal authority to do or not to do some act which would or could effect the final outcome of the trial."

Now, in line with that case at that point, I ask your Honor what person was any intent, what person was any action put to, what person in a position, to give relief in this situation, was ever contacted or ever approached. Forgetting all of the evidence in the case, it is only Dallas Hall according to the government's theory and their case, who could answer that question. And he was asked specifically did you contact the juror. No, sir. Were you asked to contact a juror? No, sir. He is the only person who could have brought any pressure to bear upon any person sitting in authority which was the juror in this case.

Continuing with that quotation, and this is from

the Etheridge case.

"While use of the term endeavor appearing in the statute here involved does not require application of the technical formalities under the common law, see United States versus Russell, 255 U. S. 138, it is also true that the criminal statute before us must be strictly construed in favor of the defendant. And that is pointed out in the Russell case."

Now, in view of that, I think it is important that Section 1503 and at least the latter part of it, be read to your Honor right on this endeavor.

Influencing or injuring officer, juror, or witness generally is the heading. Whoever corruptly or by threats of force and so forth, and as your Honor knows, he is familiar with the statute, but going on down to the latter part of it which is the meat and the part that they bring this count of the indictment on, or on the committing magistrate in his person, or property on account of the performance of his official duties or corruptly, or by threats of force, or by any threatening letter or communication, influences, obstructs, or impeded or endeavors to influence, obstruct, or impede the due administration of justice, endeavor, shall be fined not more than $5,000 nor imprisoned more than 5 years or both.

Now, your Honor, with the exact wording of that

latter part of Section 1503 before the Court, let us at once agree that Tweel did not "corruptly or by threats of force or by any communication, endeavor to influence, intimidate, or impede any witness or any grand or petit juror or officer in the discharge of his duty."

The government concedes this in the brief which they filed respecting this question under the fourth count of the indictment.

No communication whatsoever was had to any juror and that the government admits. The government, therefore, reasons and had to reason that Section 1503 embraces a more general type of an offense and includes any act which might be called "an endeavor to influence, obstruct, or impede the due administration of justice."

Now, first I would invite the Court's attention to the question of whether the conduct ascribed to the Defendant Tweel taken in its worst light reaches the dignity of "an endeavor to obstruct justice."

The question to be answered is whether it is unlawful to inquire of another whether he is acquainted with a juror and to tell him that if there is anything he can do to help with a juror that it will be worth his while. But the important question is this, is Section 1503 to be so construed as to extend to and to reach to this conduct.

Ordinary, legal principles would seem to compel

a negative answer. The law respecting a joint action conspiracy between parties engaged in a common crime or design seem to be applicable. Suppose for the sake of argument that Tweel wanted to tamper with a juror, first, he wanted to find somebody he could tamper with so he asked Hall whether he is acquainted with any juror. At this point it could hardly be argued that Tweel had "endeavored to obstruct justice."

Now, let's suppose for the sake of this argument that Hall had said that he knew no juror but that he did know a juror. At this point still no crime has been committed. At best Tweel has found a person who knows a juror but he has not yet endeavored to obstruct justice.

Now, suppose next that having learned that Hall is acquainted with a juror, he asks Hall whether he would be willing to communicate with the juror, that is to say, Tweel, invites Hall to enter into a conspiracy with him in violation of Section 1503.

At this point Tweel has still not committed a crime. Although he has invited Hall to join in a conspiracy. The conspiracy is not complete until Hall agrees with Tweel and even then no punishable crime has been committed until some overt act has been performed in furtherance of the purpose of the conspiracy.

Now, let's go back to the fact of this case for

a moment in which the person actually approached knew no member of the jury.

End 32
33 fls

Let us assume, however, that Hall did agree, which Hall himself said he did not, but for the purpose of argument, that Hall did agree to an attempt to locate and communicate with some juror. The conspiracy is complete but no crime is committed until an overt act is performed.

Now, if an act is thereafter done in furtherance of this conspiracy the payer can be punished under the law respecting conspiracy, even if the act is no more than the obtaining of a jury list, but the payer could never be punished for endeavoring to obstruct justice until and unless they committed some act, the logical consequences of which would be to corruptly influence or impede "some person who had legal authority to do or not to do some act which would or could affect the final outcome of the trial." Quoting from the previous case.

Now, Mr. Silets pointed out in his argument that prior to the enactment of section 1503 the corrupt tactics as covered by this section were punishable as contempt of court and Mr. Silets quoted an earlier case on the subject U. S. versus Carol. He didn't get into the facts too much in that and I would like briefly to state the facts because I think they are very pertinent. U. S. versus Carol is 147 Fed. 947.

The facts are quite similar to the facts now existing in this case and even though Section 1503 was not in

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existence at that time the question was whether or not they were guilty of contempt of court.

"One William Carol handed George B. Hopkins a paper containing a list of the names of the jurors impaneled to try a case and asked the said Hopkins," this is the summary of the Court of Appeals, "And he asked the said Hopkins if he was acquainted with one Ygan, one of the members of the jury, and that if he had any other friend on the jury to use his influence with him for the benefit of said defendant, or words to that effect. United States versus Selley 27 Fed. raises 'an endeavor to obstruct or impede by threat or force would necessarily imply some act when it's natural, if not necessary, consequences must be attended with an obstruction and with a force and compelling interruption of further progress in the administration of justice, that's again indicating that the act put force must itself have the direct and natural effect to obstruct or impede.' If this be so then the act of Carol in endeavoring to get Hopkins to do something for him or his brother with the jury, which Hopkins never consented to do, could of itself have no direct or sensile effect to obstruct or impede the due administration of justice.

"It was an endeavor which in no way reached or influenced the jury and, therefore, tended in no way to impede justice or the administration thereof.

"If the endeavor had been directly with the jury or a member thereof then it would have reached the mark, but in effort to get a third person to act who declined," Hall, "stopped short of a mishavior. That is, effective to obstruct or impede justice or to hinder its administration."

Now, would this conduct of Carol, which was held not to be a corrupt endeavor to obstruct justice, be considered today as a violation of Section 1503? We think not.

In the first place, 1503 as a criminal statute must be strictly construed. That was brought out, passing on this same statute in the case of Haili, 206 Fed. 2d 744. Secondly, the courts have repeatedly said that endeavors aimed at parties not connected with the administration of justice are not "within the ambit" of Section 1503.

Thus, before a person can be convicted of intimidating a witness it must be shown that the person threatened or intimidated was in fact a witness. Williams versus U. S.

The Etheridge case, which I quoted from, is merely a re-statement of the principals enunciated in the Carol case. In other words, the law has always been and still is to the effect that efforts directed towards influencing an individual will not become criminal, putting aside the question of conspiracy for the moment, will not

become criminal unless the efforts are aimed at a witness, a juror, or other individuals enumerated in the statute.

Now, there is a Fourth Circuit case, Hicks versus United States, 173 Fed. 2d 570, involving a defendant who persuaded a third party to make an approach to a juror. It was because the juror was actually sitting and was actually contacted that the conviction was upheld and the Court said this, just three lines from that case, "It was the fact that that conversation with the third party and the juror took place which was material to the charge under investigation which was a violation of Section 1503."

Now, if it please the Court, the government's brief concedes that Count 4 does not charge "a corrupt endeavor to influence, intimidate or impede petit jurors."

Instead reliance is placed upon the more general offense of a corrupt endeavor to obstruct justice, which is the last phrase of Section 1503.

This more general offense argument was rejected in the Haili case against the United States, which I cited a moment ago, where the Court said, "Interferring with witnesses, jurors and parties operates to bring about a miscarriage of justice in specific cases. Under the rule of ejusdem generis the general words which follow the specific words in the enumeration of prohibited acts, in the acts in the section herein involved, must be enumerated by the

preceding specific acts."

Now, the limited factual showing made in support of the charge against the defendant Tweel makes it unnecessary to argue at any further length respecting whether section 1503 really included the more general offense contemplated by the government in its brief.

The last really complete description of that offense by Section 1503 contemplates an act which corruptly or by threats or force or by any threatening letter or communication influences or endeavors to influence the due administration of justice, that is to say, an act which does influence or once again which amounts to an endeavor to influence the due administration of justice and an endeavor which in no way reaches or influences any person connected with the due administration of justice might make someone liable for the punishment of conspiracy, but not for the punishment of the violation of Section 1503.

Now, in conclusion, it is not intended in this discussion to concede that the evidence shows that the Defendant Tweel was guilty of a conspiracy to obstruct justice. Discussions of the possibility of construing the evidence as showing a conspiracy is only for the purpose of argument and should be considered as such and not beyond that.

In dealing with the motion for judgment of

acquittal Defendant Tweel is entitled to ask the Court to consider what it was that he actually did, what it was that he actually did. The testimony of Partin should be noted as antecedent action descriptive only of a state of mind on Tweel's part.

End 33

Tk 34 fol

It may or may not have existed when he sought to obtain information from Dallas Hall respecting the jurors. It should be kept in mind that Tweel did not discuss a jury with Hall on the occasion of their first meeting.

That is not wrong according to the testimony, if it please your Honor. Dallas Hall, Mr. Neal says that is wrong, Dallas Hall testified that on the first meeting all they talked about was race horses, horse racing, horse tracks, betting, and that no mention was made on the first and only face-to-face meeting between Dallas Hall and Tweel of the Hoffa jury.

And it was some days after that or weeks, before Hall was asked for any information about the jury. And that was by telephone. Tweel may have said to Partin that he wanted to get to the jury but there is no substantial evidence that Tweel endeavored to get to the jury. There is no substantial evidence that Hall attempted to get to the jury. As a matter of fact, the evidence is affirmatively to the contrary. When Hall told Tweel he was unable to obtain information about the jury Tweel said two words and I am sure your Honor remembers it, forget it, forget it. The charge in the indictment that Tweel corruptly endeavored to induce Dallas Hall to communicate with petit jurors is utterly without any foundation in the proof and the charge is affirmatively disputed by Dallas Hall, the government's

witness.

Similarly a statement that,"If you can get information about the jury it will be worth your while and that of the other party, too," is not the equivalent of promising money or things of value to Dallas Hall if he would communicate and cause others to communicate with petit jurors.

Even viewed in its most--in its worst possible light, the evidence fails to show conduct on the part of Tweel amounting to a violation of Section 1503.

Now, if it please your Honor, as an attorney of some 22 or 23 years in Tennessee, I have made many motions, many for the sake of the record. There were many in which I did not have too much hope of being granted, but I want to say to your Honor from the bottom of my heart, I am sincere about this motion. I do not think this man's jury--this man's case should be submitted to the jury. I think that he has sat here for four weeks through a case and he had no business sitting herein, and I sincerely and deeply urge that your Honor grant the motion which I have made. Thank you.

THE COURT: All right. Do you have your memoranda?

MR. ALEXANDER: I will have it for your Honor, yes, sir.

MR. SILETS: Your Honor, would you like to--

THE COURT: Gentlemen, I would do this, I will give you the option of either completing your argument this

evening or hearing them tomorrow.

MR. SCHIFFER: I was thinking, your Honor, of actually submitting an address of one minute to the Court because I've exhausted--

MR. NEAL: Your Honor, the government would not wish to answer the argument of Mr. Silets or--not Mr. Silets, Mr. Schiffer--

THE COURT: We will take that matter up, Mr. Neal.

MR. SCHIFFER: I am going to make no argument because every point raised by counsel up to this point they have, frankly, exhausted the law that I have in my own brief.

I just want to leave one thought with your Honor, and that is with reference to the variance of the proof from the actual Count No. 3 in the indictment and if your Honor would--

THE COURT: (Interposing) Just one moment. Did Mr. Alexander give the Court a copy of his memoranda?

THE CLERK: No, sir.

MR. SILETS: I think he went out to staple it together.

THE COURT: Excuse me, Mr. Schiffer.

MR. SCHIFFER: I was just leaving one thought for your Honor's kind consideration with reference to Count No. 3 as it affects Mr. Parks, the charge in Count No. 3 is that the Defendants Hoffa and Campbell aiding, abetting,

counseling, commanding, inducing, procuring Parks to act did unlawfully, et cetera, the entire record up to this point is devoid of any evidence at all from anybody in this record that that has transpired as charged in the count. And it is a fatal variance if I might point out to your Honor, in the language used, corruptly endeavor to influence, intimidate, and impede certainly has, your Honor, on behalf of Defendant Parks, gone into all the other defendants.

The Defendant Parks falls squarely within the same cases and I believe should be accorded the same relief as all the others have prayed for.

I just make the one point of variance between the proof and the actual charge in the indictment.

I have submitted to your Honor the memorandum and the motion and served the government.

THE COURT: All right.

MR. SCHIFFER: Thank you.

THE COURT: Mr. Schiffer, your memoranda is attached to and made a part of your motion, is that correct?

MR. SCHIFFER: I had not meant to have it attached, your Honor, the young lady may have. I would like to separate them as a partial memorandum at this time.

THE COURT: All right.

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TK 34A fls

MR. BROWN: Your Honor, insofar as Defendant King is concerned, we have submitted our motion and a partial memorandum in support thereof and I might make this as brief as possible. That our memorandum goes to the point as Mr. Schiffer brought out in the fatal variance in that the government has committed itself to a one general conspiracy between all of the defendants named in all four counts of the indictment and it sets out their language that the government has submitted in support of that contention as to testimony of Tippens in Count 2 of the indictment and we cite cases there of Strony versus U. S. The Strony case. And Kotteakos versus U. S., the citations are in the memorandum.

And we say, your Honor, that the Defendant King submits on review of the record relating to the charge under Count 5 that the material evidence offered by the government therein consisted of testimony of Witnesses Pitts, Paschal, and Partin, and I'm sure the Court will recall that all of these witnesses testified in this court under oath that they had previously given false testimony under oath on material matters relating to the issues involved in this case and as the Supreme Court has held to insure the fair administration of justice such evidence is in reality no evidence against the defendant in a criminal cause and will not support the submission of charge to the jury.

So, therefore, we move the Court for a judgment

of acquittal on behalf of Defendant King.

THE COURT: All right.

MR. HAGGERTY: May we have a short recess at this time, your Honor?

THE COURT: All right, yes, sir, let's take a 10-minute recess.

(Thereupon, at 4:25 o'clock, p.m., court was in recess.)

End 34a
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MR. ALEXANDER: If it please your Honor, there was some question of whether that motion of mine was filed by the Clerk or not.

THE COURT: Yes, it was during the recess, I gave it to the Clerk.

MR. ALEXANDER: Fine.

THE COURT: And it has been filed. Has the Clerk returned it to the Court?

MR. DALE: I have got it in the file, your Honor.

THE COURT: All right. Yes, Mr. Berke.

MR. BERKE: If your Honor please, in view of the lateness of the hour and in view of the fact that the attorneys here have argued at some length, I will try, as briefly as I can, to present the Defendant Mr. Hoffa's motion for a judgment of acquittal.

I am assuming, of course, and I don't see where it is even necessary to argue on the second count of the indictment in view of the ruling that the Court has made yesterday and in view of the United States Attorney's position to cut the argument down considerably, I am assuming that there is no issue on Count 2 of the indictment as it stands now under the proof. However, I am willing to argue that point but --

THE COURT: (Interposing) Well, suppose you proceed with your other argument, then we can take that up

with the government.

MR. BERKE: All right. If your Honor please, on the Counts 3, 4, and 5 of the indictment we have filed a brief and I will not try to read from the citations in the brief because I am sure the Court will, before passing on this motion, read the brief.

In no count is this defendant charged with actually committing any of the overt acts, only as an aider and abettor, somewhat akin to an accessory before the fact.

Of course, we take the position that in the event any of the defendants are successful in their motion for a judgment of acquittal insofar as this defendant Mr. Hoffa is concerned that we would be entitled to a judment of acquittal on that particular count and as to that particular defendant.

Now, briefly reviewing not all of the evidence but all of the evidence pertinent to Mr. Hoffa's connection with Counts 3, 4, and 5 of the indictment, it must be remembered that up to the point where Mr. Partin testified there is no evidence of any kind that can be referred to or that I know to refer to to connect Mr. Hoffa with any of the acts charged in those counts of the indictment.

Now, in addition to the fact that Mr. Partin's evidence as we contend is not subject to be believed, in addition to the fact that even though the Court might say,

"Well, the question of credibility is for the jury," his evidence is so incredible and so unworthy of belief that we think that the Court can, as a matter of fact, take that into consideration and rule from that that there is no evidence, but if the Court should hold that that is a matter for the jury to pass on, what do we have?

First of all, and I have gone through the record, I will not necessarily recite all of the page numbers from the evidence because that would be rather lengthy and I do not have that evidence recited in my brief, so if the Court will make note of these facts -- I am trying to cut my argument down as much as possible.

First of all, taking Mr. Partin's testimony from the beginning to the end, the first reference that he has to Mr. Hoffa is that the Defendant Quinn, according to Mr. Hoffa's statement was a friend of Allen Dorfman's and that, "He is up here to help me."

Now, of course, that in itself means nothing. Mr. Hoffa may have had many people up there to help him, just as they have here in Chattanooga to help Mr. Hoffa.

Now, the second quotation where he involves Mr. Hoffa is that the Defendant Dorfman said, and this is on 3222 of the record, "That he is going to get one juror or scattered jurors." Not that he has, not that he is doing it, but that he is going to get.

Now, the third incident that Mr. Partin had reference to was that he said that, "Mr. Hoffa said that he wanted to pass something for him." In other words, this witness says that Mr. Hoffa wanted the witness to pass something for him and hit his rear pocket, but he never did say that he did give him anything to pass to him nor that he ever told this witness to do anything whatever towards this event.

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36 fls

Chronologically speaking, according to this witness' testimony he said that the blankety blank, in the plural, I don't have to repeat the words, the Court knows what I'm talking about, went in and told the Judge that his neighbor had offered him $10,000.00. Of course, we think that count is out anyway but on that issue, since it is only going to credibility it has no probative value as to the substantive offense.

The Court has held that that statement only goes in to see whether it may or may not corroborate Mr. Partin, so that in itself is no evidence as far as the actual offense is concerned.

The fourth item chronologically is the attempt by this witness to call Mr. Wade, a football player, but that fell out. He didn't say what he was going to do. Didn't call him. Didn't contact him. No further effort was made in that respect.

The next item which we have here chronologically is that he said, after stating that some banker had hurt him on the witness stand, and that Mr. Hoffa was upset, he said he would pay $15,000.00 or $20,000.00 to get to the jury. Not that he has arranged to do it. Not that he did do it. But that he would do it. Not that he has done it. But everything that he might and as the Court will see practically all of his evidence was to that effect. And it ran more

or less in the narrative.

The next item chronologically is that Mr. King, he said Mr. Hoffa said that Mr. King was supposed to have made some contact with a juror but that he is fumbling around. Not that Mr. Hoffa told Mr. King to do it. Not that he aided and abetted Mr. King. But he only simply made a statement that Mr. King was supposed to have done it. Not at Mr. Hoffa's directions, but only that he was supposed to have done it and that King was simply fumbling around and I want to remind the Court for the benefit of Mr. King, that this is not evidence against Mr. King in any respect but all it says insofar as that is that Mr. Hoffa perhaps knew that King was supposed to do something. Not that he aided or abetted or encouraged. Knowledge that a crime is being committed, if Your Honor please, is not aiding and abetting and, of course, we have cited the cases on that and I will not burden the court with reading those cases.

The next item chronologically is the statement which this witness said that Mr. Hoffa had a colored male juror in his hip pocket and that Campbell had come to Nashville before the trial and took care of it.

Now, while Mr. Partin may have said that, if Your Honor please, that is physically and absolutely an impossible situation. It couldn't have been done before the trial. There was no way to know who was going to be on

the jury. And the mere fact that he says a ridiculous thing doesn't mean that it becomes to the degree that you can say it rises to the dignity of evidence.

If a man says it was daylight at midnight that doesn't mean in itself now we have some credible evidence.

In other words, if this witness had said something that is so incredible that it is impossible to believe you can't say that that in itself becomes evidence because it was impossible to take care of anybody before the trial and of course as it stands here, the facts show that Mr. Campbell wasn't here. It couldn't have happened under the government's theory, it is not contended that agents, that is agent Campbell came to Nashville and that is Partin's statement, that Campbell came to Nashville prior to the trial and took care of it. And I'm quoting from Partin's testimony.

Now, the rest of the testimony was to the effect that Mr. Hoffa had instructed Bufalino to get a jury list for Tweel but didn't say for what or for any other purpose. Said Mr. Tweel wanted it. Get him one. Of course, that is Mr. Partin's testimony.

Now, in addition to that if Your Honor please, the rest of his testimony as I have it here and I have it all excerpted here which of course is not in my brief but we know that the Court takes full notes on this situation and on the evidence, is simply Mr. Hoffa's complaint that things had not

been done. Practically all of the rest of the statements I have it here is complaining that King did not contact this juror.

But nowhere in the evidence when you read it, Your Honor, does it show that Mr. Hoffa at any time aided or abetted any particular person to do anything. The most that can be said was that Mr. Hoffa was aware of certain things that were happening. That is, that certain contacts were trying to be made. That certain persons were making efforts to do things but nowhere in the record does it say that Mr. Hoffa told so and so to do this and that for him. Nowhere in the record does it show that Mr. Hoffa gave anybody anything or did anything whatever.

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37 fol.

Or instructed anybody to do anything. All it does here is that Mr. Hoffa is complaining that things had not been done, that King hadn't done his job.

All he says in here is that Campbell had already done something and he had it in his hip pocket, not that Mr. Hoffa had aided and abetted him in doing that but something was already done.

So, as I say, the most that can be said, and this we have briefed in the brief, is that Mr. Hoffa knew, according to Partin's testimony, the best inference you can make is that Mr. Hoffa knew that something was being done.

Now, in action on the part of Mr. Hoffa, whether he complains about what is being done or whether he doesn't complain about what is not being done, is not an offense in itself.

What Mr. Hoffa is charged with is aiding and abetting, in other words, doing something with them, being there.

Now, it is conceded here that he, himself, has never gone out to see anybody, has never talked to anybody about it. The only thing Partin said is that he knew these things were going on.

Well, knowledge of these things going on or knowledge that because somebody had contacted a juror, that he had him in his hip pocket, that is not aiding and abetting,

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if your Honor please. There is no showing that Mr. Hoffa had expended one dime or one nickel or one cent or any other favor or any other consideration to get one of these defendants to do whatever they did, if they did any such thing, and we don't concede that they even did that, so we say that when you place all that together when you read the language in the indictment, the charges he has made, where is there any evidence that he had aided or abetted any particular person to do any particular thing? There is nothing in the record, according to King, that Mr. Hoffa is going to do something. All he says is that something had already been done, not that Hoffa had did it, somebody else had did it. He never says that, "I got so-and-so to do so-and-so for me," or, "I encouraged it to be done."

And when your Honor will read the record, and I have read Partin's testimony and, of course, the Court can see how long it would take me to argue it if I went in and recited all of Partin's testimony, as the Court said, it was four or five days of testimony, and I don't want to belabor the issue, but as familiar as I am with this Court and how the Court keeps extensive notes, and I am sure that the Court will review this and can determine from reading the evidence that insofar as anything other than knowing that something went wrong, there is no evidence that Mr. Hoffa, himself, had aided or abetted any defendant in this.

We say that under the facts of the case that it is not a scintilla rule as you do in a civil case, that the presumption of innocence, even on a motion for a directed verdict, and we have some cases on this, still stands, and it's not a question of whether or not there is some slight evidence to go to the jury.

This Court has the responsibility of whether there is any substantial credible evidence that should go to the jury on the issue of whether or not he aided or abetted any particular person, so we say under that proof that the Court should grant the defendant's motion for a judgment of acquittal.

THE COURT: All right.

MR. NEAL: May it please--

THE COURT: (Interposing) Just a moment before we take up the government. Mr. Hutcheson is here. Mr. Hutcheson, what is the matter that you wanted to take up with the Court?

MR. HUTCHESON: If your Honor please, I filed a motion at noon today asking the Court to modify the subpoena which was served upon me on behalf of my client and I think it won't take but a moment or two.

THE COURT: All right. Let's hear what you have.

MR. HUTCHESON: All right.

THE COURT: Yes, sir.

MR. HAGGERTY: I may say, your Honor, as far as the date of March the 1st, of '63, or I am willing to amend the subpoena to that point but as to the other matter raised in there, they were in exclusion of some matters that were in the original subpoena and among those things that were subpoenaed in the new subpoena or second subpoena was the minutes of the meetings of the executive board and of the union.

Now, I take this position: I understand this gentleman accepted service of the subpoena in behalf of his client. That being true he conversed with me and he said that those additional records in the second subpoena were not available but were down in Baton Rouge. Am I correct in that?

MR. HUTCHESON: I assume. I have no personal knowledge of whether there are any additional ones, your Honor, but if there are they are there and not here.

MR. HAGGERTY: I take the position if a lawyer takes the responsibility of accepting service of a subpoena for his client then it is incumbent upon him to produce the records that are contained in the subpoena itself.

Now, particularly do we want the minutes in addition to these records, some of these financial records.

THE COURT: Well, all right. Let's see what, in light of what Mr. Haggerty says, is there still an issue

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pending?

MR. HUTCHESON: Yes, there is.

THE COURT: Let's hear what you have to say.

MR. HUTCHESON: If your Honor please, I read in the newspaper yesterday that some comment was made by counsel that Mr. Bennett no doubt had gone back to Baton Rouge and made much ado of this matter, but I would like to advise the Court that none of them contacted me and asked me whether or not he was in Chattanooga or whether he had gone back and, as a matter of fact, he had not gone back and has not left the city and is still here. Therein lies the problem.

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Which was served down in Baton Rouge did not ask for any resolutions or minutes of meetings and after the original subpoena was quashed by your Honor they purported to issue new subpoenas and, of course, I accepted service on behalf of my client. And at the time I accepted service I had no knowledge of what they requested and could not be in a position of agreeing that my client would bring these documents into court. I have never heard such a strange argument in my life. But the matter is, the truth of the matter is, that my client was down in Baton Rouge and he brought to Chattanooga in response to the subpoenas, even though irregular, brought in response to the subpoenas all of the things which he had been requested to bring.

He did not bring the resolutions because he was not requested to bring them. Now, after he is in Chattanooga, they issue new subpoenas and ask for him to bring matters which he did not originally bring and which they did not request for him to bring.

Now for him to get these records would cause him to go over 1,100 miles round trip to get those matters and bring them back to this court. I think it is oppressive. I think that it is unreasonable and I think that they should have inserted in the original subpoena those things that they wanted for him to bring and now for them to enlarge upon any, if your Honor please, I think is improper and I urge your

Honor to modify the subpoena accordingly.

THE COURT: Well, I take it the only -- there is no issue about making available to the defendant the financial records they ask with regard to Mr. Partin that are covered in the original subpoena?

MR. HUTCHESON: That's correct. That's right. If your Honor please, those relate to telephone bills and the checks and check stubs which paid them.

THE COURT: So that the issue between you and the defendants at this time relates to --

MR. HUTCHESON: (Interposing) Only the resolutions.

THE COURT: Additional matters that they are requesting in the new subpoena?

MR. HUTCHESON: Yes.

MR. HAGGERTY: I may suggest in the alternative?

THE COURT: All right, sir.

MR. HAGGERTY: I do take the position that when a lawyer accepts process of service, particularly of a subpoena for his client, he is then substituting himself in the place of the client and he cannot raise an objection. He would have an opportunity to read the subpoena before he accepted service. It was served by the marshal.

Now, further I say this, there is no real problem here. If Mr. Bennett is in Baton Rouge, there is no

reason why the services of air-mail that he cannot enclose those and mail those here to his attorney.

MR. HUTCHESON: He is not in Baton Rouge, if your Honor please. He is in Chattanooga. He is not in custody of those records nor is he --

MR. HAGGERTY: (Interposing) Well, the easiest thing for him, if he is here, he has control of the records, is to call Baton Rouge or write to Baton Rouge, whatever you do, call isn't terrifically expensive, and ask and we will pay for it, as a matter of fact, and have those records that are missing sent up here. Very simple and easy way out of it. Instead of making a major case out of it.

MR. HUTCHESON: If your Honor please, it seems to me that when they asked him pursuant to a subpoena duces tecum for him to bring those things into court that now they ask for them to be sent in, that this is no longer a subject for subpoena duces tecum. This is discovery subpoena procedure where they want records to be sent in.

THE COURT: Just as a matter of suggestion, cannot Mr. Bennett go back to Baton Rouge and mail the matters to Mr. Hutcheson and then Mr. Hutcheson make them available to the attorneys? Would that not resolve the matter?

MR. HAGGERTY: I have to add here to my rights under a subpoena, under these circumstances, it is not different if Mr. Hutcheson was served or his client was

served.

THE COURT: That is true, if they had been served with subpoena they still would have the right to raise the question whether the subpoena would be quashed.

MR. HAGGERTY: That is true always have that right. But it seems to me that it is nothing to quarrel and nothing to run into a long harangue about. If the man certainly if he is in control of those records now he has been paid $50. He was paid a hundred dollars. And if he wants, he can go down to Baton Rouge, but the thing about it is all he has to do is send down there for those records. Now, if he is subpoenaed to bring them in and subpoenaed in Chattanooga where he in fact was subpoenaed through the substitute service on his attorney, he would have no alternative but to produce those records wherever they were and wherever service was obtained here in Chattanooga.

THE COURT: Let me just suggest this, let me suggest that you consider the matter of Mr. Bennett going back to Baton Rouge and sending the records to Mr. Hutcheson and then see if the matter can be worked out between Mr. Hutcheson and counsel and make them available.

MR. HUTCHESON: Is defense counsel going to insist that Mr. Bennett testify so that he would have to come --

THE COURT: (Interposing) No, I assume if they desire him to come back they can notify him of the date to

come back.

MR. HUTCHESON: Yes, sir, we can work it out.

MR. HAGGERTY: Save him staying around here.

THE COURT: See if you can work it out in that manner.

MR. HAGGERTY: No need bringing him in until such time as we need him.

THE COURT: It would seem to the Court that would be a reasonable conclusion.

MR. HAGGERTY: All right, that settles it.

MR. HUTCHESON: Yes, sir, we can arrange it.

THE COURT: All right, Mr. Neal.

MR. NEAL: May it please the Court, as I mentioned to counsel for the defendants, they never read that old statement that brevity is the soul of wit. I am going to try to answer all of the arguments and be very brief about it. I don't think there is any real question involved in any of them. I won't try to answer the motion of the Defendant Parks or the Defendant King for more than obvious reasons. They have no merit whatever. Neither do the others. But Parks' and King's motions have even less, if it can be less than nothing.

With respect to the motions of Dorfman and Tweel, your Honor, I would like to answer those first, if your Honor please, it seems to me to be the burden and by the way I might say in the beginning that the same arguments were

made to Judge Gray essentially in the same manner, essentially in the same words. Their thrusts were essentially the same and they were held to be insufficient as they are insufficient today.

Mr. Silets says that the rule of this point or should be, he doesn't claim it is the rule, he admits that it is not the rule but claims the rule should be that the proof at this point should exclude every hypothesis but that of guilt.

That is not the burden at this stage of the proceeding with respect to motion for judment of acquittal. This is clear, your Honor, from --

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THE COURT: Well, he was talking about the certain rule with regard to circumstantial evidence.

MR. SILETS: Yes, sir. That's right.

THE COURT: Where the Sixth Circuit has applied the rule of reasonable doubt to circumstantial evidence the same as to direct evidence

MR. NEAL: That's right, Your Honor, we can leave that. The Sixth Circuit rule with respect to circumstantial evidence is exactly the same as with respect to direct evidence. There was given a charge in 1962 in the Hoffa case and we have made that request for instructions taken directly from that and will expect Your Honor to charge on it. I will move on from that then.

MR. ALEXANDER: May it please the Court, before he goes on, I want to interrupt him on one thing, and he says his main argument was made in front of Judge Gray. If Your Honor please, no proof was taken before Judge Gray. Argument was made before Judge Gray. Dallas Hall hadn't testified.

MR. NEAL: Your Honor, am I going to be interrupted within the course of this argument?

THE COURT: No. Complete your argument.

MR. SCHIFFER: Judge, at this time it is between two Tennesseans.

MR. NEAL: Well, it is more gentlemanly, I must

say.

May it please the Court, the argument of Mr. Silets seems to be that there was no evil motive or no corrupt motive in the cause or in Count 3. I would like to point out that according to the testimony in this case it was testified that Tweel said that he was here at the request of Mr. Dorfman. To help them get to the jury.

End 38A

Tk 39 Fol.

It was also testified--this was run October 21, 1962--it was also testified that on the very, that on the very day that the call was made--you remember there are two calls from Dorfman to Tweel and then from Tweel to Dallas Hall--the testimony was that Tweel said to the Witness Partin that he needed a jury list in order that he may contact Mr. Hall and read the jury off to him so that he could contact the people.

There is your evil motive, your Honor. He is setting up, in the words of the Witness Partin, Dorfman called him and told him it would be a personal favor to him if he would come to Nashville and help him set up a method to get to the jury. Transcript 2964, this is October 21st or 22nd, 1962.

Later when the crucial acts occurred, when Partin called Tweel, Tweel said he needed a jury list in order that he may contact Mr. Hall and read the jury off to him so that he could contact the people.

Now, may it please the Court, it would be very naive to think that while the trial is in progress and after Tweel is making these statements that he is going to help him to get to the jury that he called Mr. Hall just to find out something about some people. And that is not the testimony, of course. The testimony is that on the night in question the Defendant Dorfman made two or three calls. One

was terminated quickly, it was made at the Union Station, your Honor, on November the 22nd, the record shows, made around 8 P.M., it was terminated, it's from Dorfman to Tweel, it was terminated because the phone was in the open.

Ten or 13 minutes later, according to the records, there was another call made from Dorfman to Tweel. At this time Tweel--Dorfman read the jury list off to Tweel or read it off to Mrs. Fulton, who took it down. After taking down the names of the jury list Mrs. Fulton started to type the list up on the stationery of the company for she didn't know what evil motives these people had. So she starts to type it up on the stationery of the company and Tweel said, "Oh, no, put that on blank paper." She types it up on the blank paper, the original and two copies, and gives it to the Defendant Tweel. Then the Defendant Tweel calls Dallas Hall and he asks him if he knows anyone on the jury and, your Honor, that appears two places, I will give you the citation--it didn't come--the testimony of Dallas Hall doesn't come out in as clear order as one would like--it's Page 2491 and then again at 2496, but taking the two together, this is what was said, "He called me and asked me if I knew anyone on the jury and I told him I wasn't interested, that I didn't keep up with it. And then he says, 'Do you know anyone who knows anyone on the jury,' or words to that effect. And then he said, 'It would be worth something to

you and the other party, too.'"

Now, it didn't stop there, your Honor, as people would have you believe, oh, no. A few days later there was another call. At this time Dorfman--Tweel had not found anyone he knew on the jury or found anyone who knew of anyone on the jury so the Defendant Tweel read the jury list to him again, gave him the names and Hall, going along with it, says, "I will see what I can do."

And then there was a third call and he wanted to know if he had found out anything and Hall tells him he had driven all over and couldn't find out anything and it was at that point, and only at this point, that the Defendant Tweel gets cold feet and decides not to push, not to push, but he has pushed, your Honor, not to a casual manner, as Mr. Silets would say, walking down the street with somebody and scratching his head, "Gee, I'd like to get to somebody on the jury." Or, "Do you think you know anybody on the jury?"

He comes from Huntington, West Virginia, to Nashville, Tennessee, I am sure a distance of over four or five hundred miles anyway. He says,"I am here to help them set up a method to get to the jury. I came down here to help Dorfman." He goes back then. He gets a jury list. He has it typed up on the plain stationery, then he makes three or four or five calls to Partin or from Partin to Hall, three calls to Hall, in order to get somebody to get to the

jury.

Of course, he didn't ask Dallas Hall, "Now, you contact this person." And the reason he didn't was because of these very things that Mr. Hooker brought out on his redirect examination.

Hall didn't know anyone on the jury and couldn't find anybody who knew anybody, and the reason there was no contact to a juror is because Hall was not a helpmate. He didn't know anyone on the jury. If he had known anyone on the jury the next step, of course, would have been, "Approach them."

Clearly sufficient, your Honor, in view of all of the cases to establish a corrupt intent. Now, in the brief of Mr. Silets, and really in the brief of Mr. Alexander, they rely on a case of United States vs. Carroll. This is a district court, District of Montana, decided August 20, 1906, and they say this is on point, the facts are on point.

I point out to your Honor that United States vs. Carroll, this is the case they said was in 147 Fed., not Fed. 2d, at 947. They say this is the case that decides the thing. I point out to you that this District Court case of 1906 was prior to the statute which inserted the words "corrupt endeavor, corrupt endeavor to obstruct justice."

It was 17 years prior to the leading case on this point, United States vs. Russell, in which the Supreme

Court construed and has made, as far as I can see from what they said, the final word on this particular statute.

United States vs. Russell, your Honor, is 65 Law Edition 553. In United States vs. Russell this was said, and this is 17 years after the Carroll case and after the statute has been amended to put in the word "endeavor," citing from the Russell case:

End Tk 39
Tk 39A fls.

"We think, however, that neither the contention nor the cases are pertinent to the section under review and upon which the indictment was based. The word of the section is 'endeavor' and by using it the section got rid of the technicalities which might be urged as besetting the word 'attempt' and it describes any effort or essay to do or accomplish the evil purpose that the section was enacted to prevent. Criminality does not get rid of its evil quality by the precautions it takes against consequences, personal or pecuniary. It is a somewhat novel excuse to urge that Russell's action was not criminal because he was cautious enough to consider its cost and be sure of its success. This section, however, is not directed at success in corrupting a juror, but at the 'endeavor' to do so. Experimental approaches to the corruption of a juror are the 'endeavor' of the section. Guilt is incurred by the trial,-- success may aggravate, it is not a condition of it."

Citing from Page 555 of 65 Law Edition. That is what happened to United States versus Carol, Your Honor.

It is naive, yet the defendant would seem to expect for the parties to sit down and say and spell all this thing out word for word for word as to what they want them to do. Everybody knows what they wanted and the jury is entitled to draw the inference that they must draw fromthis.

We rely, of course, on United States versus

Russell, rely on the Caldwell case and that case, Your Honor, they said this didn't go far enough, in that case the approach was made to the intermediary, the intermediary party to go among the jurors, just go among them, see what they are talking about, sound them out.

In that case, Your Honor, the person, the defendant, approached to sound out the jurors, and I have checked in Washington with the transcript on this, be happy to have it for Your Honor, in that case the intermediary didn't even let the defendant put his foot in the door, he slammed his foot on the door and that was it.

Well, Hall played around with it a little bit. Mr. Tweel got a little nibble. Mr. Hall almost took the bait and it was no thanks to Mr. Tweel that he didn't, so we rely on the Caldwell case, we rely on the Knight case, the Anderson case cited by us.

In Sinclair versus United States that has been cited several times, I don't know the citation off-hand, it is one of the cases growing out of the Teapot Dome scandal, I will have it in a moment. In that case even before the words "corrupt endeavor" were in there the Court held that the mere surveillance of jurors, even though there was no proof whatever that the jurors knew they were being surveilled, was an obstruction of justice, not an endeavor to obstruct justice but an obstruction of justice and was

punishable as contempt. Of course, that was before the Nigh case was making and restricting the scope of the contempt powers of the court.

As I say again in summary on this point, Mr. Silets seem to say really in his brief, "Well, there was no corrupt motive involved in this." The testimony of Hazel Fulton, the testimony of Partin, the testimony of Hall, leads only to one instance, that Tweel was trying to get to the jury in every way he could and Dorfman was aiding and abetting and, of course, Hoffa was aiding and abetting.

We also rely, Your Honor, on the Hicks case, a Fourth Circuit Court case that has been cited several times. Of course, in that case there actually wasn't an approach made but the Court had held that that was not necessary to complete the offense. They did hold that the conversation between the intermediary and the juror was admissible, not as hearsay but as a fact that the approach was made, but the offense was completed by going to the intermediary.

That Sinclair case, Your Honor, I cited is 279 U. S. 749, a 1941 case.

THE COURT: Seven what?

MR. NEAL: 279 U. S. 749. So we say, Your Honor, that Hall's testimony is this, refers to the conversation, "Did you know anybody on the jury? If you know somebody who knows somebody who knows somebody it would be

worth something to you and them, too." That's the essence of it.

He calls again, he reads the jury list. "What have you done?" He calls a third time, he makes every reasonable effort and then chickens out.

Dorfman, of course, obviously aided and abetted and I didn't gather from Mr. Silets' argument that he was really saying that Mr. Dorfman didn't aid and abet whatever it was he was saying that there was no offense committed.

End 39A

Tk 40 fol.

Now, Your Honor, with respect to the Branstetter motions, we would like to hand up to the Court a chart which we will expect to use in the closing argument to the jury assuming the Court rules in our favor. It shows the more serious, most serious and the most convincing evidence of the Defendant Campbell's participation in this case. We point out, Your Honor, and we will rely at this point on those cases cited in our memorandum submitted with respect to the witness Tippens. This is not anything like as close as the witness Tippens' case, but the cases there are certainly pertinent.

Two additional cases, Marbs (Spelling) M-a-r-b-s, versus United States 250 F 2d Page 574, Sixth Circuit, 1958.

United States versus Pagano (Spelling) P-a-g-a-n-o, 284 F. 2d 682, Sixth Circuit, 1955.

The testimony with respect to the Campbell or third indictment is this, Your Honor, you have to take the whole thing, Hoffa is the only defendant on trial in this case. The one with the motive to corrupt the jury. Campbell is his business agent in Detroit. Campbell has an uncle in Nashville by the name of Thomas Ewing Parks.

Hoffa comes into Nashville and he says and he brings his colleagues in. Somebody, Nicholas Tweel, who comes under the name of Anthony Quinn, he is up here to help him. At Page 3963.

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At Page 3222 Hoffa says they are going to try to get to one juror, or get to scattered jurors and take their chances.

He tells Partin he may want him to pass something. Tells him a day or two later now he doesn't want him to pass something because so and so went in and told the Judge a neighbor offered him $10,000.00. Going to have to lay low for a few days. Wanted him to get Billy Wade into court. Said he would pay $15,000.00 or $20,000.00, whatever it was to get to the jury. That is Page 3269.

Then he says, Your Honor, don't worry about it too much because I have got the colored, male juror in my hip pocket. One of my business agents Campbell came into Nashville prior to the trial and took care of it. This, Your Honor is a statement in furtherance of the conspiracy. The conspiracy is in progress. And this, Your Honor, ties Hoffa with the effort to bribe a juror, Gratin Fields, who is the only male, colored juror on the jury.

The other part of the conspiracy, major part of the conspiracy is the Defendant Parks. Nothing need to be said about that. The proof is overwhelming.

He offers Carl Fields the son $5,000.00, $5,000.00 for him and $5,000.00 for his father if he will vote for acquittal.

End 40

Tk 40A fol.

Now, your Honor, consider this, he also tells them that he has got to know at a certain hour that night. He has got to let Louisville know. Who is in Louisville? Larry Campbell is in Louisville. Larry Campbell is there staying at the Brown's Guesthouse.

Now, your Honor, if we have shown anything beyond any question of doubt in this case we have shown that throughout this period of time Larry Campbell was in Louisville in constant communication with the man who was directly attempting to bribe Juror Fields through his son Carl Fields. You will see from your chart there numerous calls. Ernestine Williams' testimony directly and specifically testified that Campbell was calling Nashville, the residence of Mattie Mix. Mary K. Reeves in substance says that Campbell was calling the Nashville residence of Mattie Mix.

Ernestine Williams testified that Campbell was making and receiving calls at certain specific booths in Louisville. What do you find in those booths? Telephone calls to and from the Mattie Mix residence in Nashville and who is the Mattie Mix residence? It is quite obvious here that Tom Parks is the person making the calls from Mattie Mix' residence. Certainly the jury could and should infer that Mattie Mix testified she didn't make the calls. Madie Harris, other persons used the phone. Is the jury to believe some milkman made all those calls or the postman? From the Mattie

40a-2

Mix residence? Parks took his meals at the Mattie Mix residence morning and night.

She testified that he had a key to her house and finally she admitted that he was also the only one person who stayed there during this trial. During the course of the Nashville trial. Certainly Campbell was in contact with the man who was making the approach.

As your Honor will see from the chart he also, the inference is clear he also was in contact with Hoffa at the Andrew Jackson Hotel with someone who was staying at Hoffa's residence in Detroit.

Campbell told Mrs. Brown that he was going to Nashville. Campbell said my boss is in trouble.

Now, your Honor, we have clearly shown with respect to this a conspiracy, put it that way, aiding and abetting conspiracy, whatever you want to call it, we have clearly shown that the defendant Tom Parks attempted to bribe Juror Fields. We have shown that Hoffa was aiding and abetting this by his own clear statements.

End 40a
40b fls

We have shown that Hoffa was part of the conspiracy to do this by his own clear statements and, your Honor, the law, the law of this is quite clear as stated by the Sixth Circuit, once you have shown a conspiracy, Poliafico vs. United States says once you have shown a conspiracy, No. 1, presumed to continue, No. 2, once, I am quoting Poliafico, once the existence of the conspiracy has been established, slight additional evidence has been required by the Courts, slight additional evidence, to connect the defendant with it. City Sixth Circuit case of Poliafico vs. United States, 237 F. 2d 97, and 104. Sixth Circuit 1956. Certiorari denied, 352 U. S. 1025 and 1957.

Your Honor, it is also quite clear that some statement was made that we don't establish the phone calls for this purpose. It is not necessary that the overt acts of Campbell be shown to be criminal in an of themselves.

As stated in Hickman Coal and Coke Company vs. Mitchell, Supreme Court case, this is 245 U. S. 229, Hickman Coal and Coke Company vs. Mitchell, in order that the declarations and conduct of third parties may be admissible in such a case it is necessary to show by independent evidence that there was a combination between them and defendants. But it is not necessary to show by independent evidence that the combination was criminal or otherwise unlawful. The element of illegality may be shown by the declarations

themselves.

The element of illegality here with respect to Defendant Campbell is shown by the declarations of the Defendant Hoffa. Had the Negro juror in his hip pocket. And the declarations and actions of Thomas Ewing Parks in his attempt to bribe the Juror Fields.

Would your Honor indulge me just a moment? With respect to Campbell we also rely on the briefs as I said cited with respect to the Tippens matter although this case is not close like the Tippens matter was. We rely on the Marbs case and the Pagano case which we have given the Court. Would your Honor indulge me just a moment?

Now, your Honor, that leaves one other argument and that is with respect to Defendant Hoffa. I don't think that I need to spend much time on that. I don't think that Mr. Berke can really be sincere in his statements that we have not shown Hoffa to have aided and abetted, counseled, 3, 4 and 5, I am leaving No. 2 for the moment. He did leave out some of the things there were stated and I would like to briefly go over their page citations for your Honor.

Hoffa says at Page 2963 with reference to Anthony Quinn or now as we know him Nicholas Tweel, oh, yes, he is up here to help me. Page 3222, Hoffa said they were going to get to one juror or try to get to a few scattered jurors and take their chances.

At Page 3238 Hoffa said, Hoffa called Partin into his room and told him when he came back he may want him to pass something for him and hit his rear pocket.

Two days later, your Honor, on October 25, after Tippens and this testimony shows had reported a conversation to Judge Miller and after Judge Miller had reported a conversation to the defendant, Hoffa says at Page 3246, the dirty so-and-so went in and told the Judge that his neighbor had offered him $10,000. We are going to have to lay low for a few days.

End Tk 40B
Tk 41 fls.

This statement was made when Partin went back in to see Hoffa and said, "When I was here last." In connecting it up the conversation, "You might want me to pass something." At 3262 Hoffa asked Partin to call Billy Wade to come into town and see if he knew anyone he could get to on the jury and to come in the courtroom and shake hands and mix it up with the defendant.

Well, now, your Honor, we have shown a telephone call from the defendant, from the Witness Partin to the home of Billy Wade. At 3269 Hoffa said he would pay 15 or $20,000 or whatever it cost to get to the jury.

At 3279 Hoffa says, "King keeps telling me," and Mr. Berke would say he is not urging that King to do this, "King keeps telling me he can get to the patrolman, but he don't get to him. He keeps talking about it and fumbling around."

Your Honor, in view of this testimony in this case Mr. Berke's argument can only mean that Hoffa can't be -- there's no evidence connecting Hoffa or making Hoffa an aider and abettor unless we put on proof that Hoffa said, "I am an aider and abettor, counselor, producer, commander, procurer," if this is not inducing, aiding, abetting, counseling, commanding, producing and procuring, I don't know what it is.

Then he says, "Don't worry about it too much.

I have got the juror, colored male juror in my hip pocket. Campbell took care of him."

Now, we don't know whether Campbell -- we are not saying whether Campbell came to Nashville before the trial at this point right here and did it or did it during the trial or not. Partin wasn't presuming to give facts of what Campbell did, he is merely presuming to say what he understood Hoffa to say. That is the important point.

Then at page 3285 in the transcript, Hoffa said, "It looks like our best bet is a hung jury unless we can get to the foreman of the jury."

At 3298 Hoffa called King a stupid so and so for fumbling around and not getting the job done.

They mean to argue, your Honor, that Hoffa is not inducing this?

At page 3308 -- 3309 Hoffa says that he was disturbed because the patrolman wouldn't take the money. Hoffa said if he had taken the money it would have pinned him down and he couldn't have backed up.

Now, with respect to the third count, your Honor, the testimony of the Witness Partin is that after he had been asked by Dorfman to contact Tweel and see what Tweel is doing and was told by Tweel that he had a man in Nashville by the name of Hall who could help him get to the jury and, your Honor, this was the statement made, Tweel said, "I got

a man in Nashville by the name of Hall who can help us to get to the jury."

And Partin then reports this back to Dorfman and back to Hoffa and what does Hoffa do? When told in this conversation also that Tweel needs a jury list Hoffa then called and got a jury list.

THE COURT: You said third count. You are referring to the facts and testimony and so forth --

MR. NEAL: (Interposing) The fourth count, your Honor, that Hoffa was told that Tweel had said he had a man in Nashville who could help him get to the jury but needs a jury list.

When Partin takes this information back to Dorfman and Tweel, Hoffa gets him a jury list, has him to make a call. They were down to O'Brien's Beefery and Hoffa apparently engages the people in the Union Station in a conversation about the height of the ceiling while Dorfman makes a phone call.

In view of all of this, your Honor, there can certainly be no doubt that the jury is entitled to infer that Hoffa, the only man who stood to gain, the only man on trial, was aiding and abetting with respect to Counts 3, 4, and 5.

Now, with respect to Count 2, your Honor, I guess the best thing that the government could say in this is that,

your Honor, we think in all respects, of course, we think that your Honor erred in favor of the defendants, but certainly it was an honest error. I am afraid that since we were not permitted to prove the approach by Medlin to Tippens we cannot go to the jury with respect to Hoffa's aiding and abetting but could you let me have a minute to confer on this?

THE COURT: All right.

MR. NEAL: Before we go into that I did want to cite your Honor a couple of cases. The basis of this, of course, our position in all of these respects to aiders and abettors is far stronger than this, but this is Daldarey versus United States, 155 F. 2nd 417 and in Marr versus United States, I gave that, I think, that is 250 F. 2nd 574, states that knowledge plus strong motive is enough to go to the jury on aider and abettor and in Nigh versus United States and Nisson versus United States, your Honor, 366 U. S. page 613 and particularly at page 619, I will read what the Court says in Nigh and Nisson versus U. S. 366 U. S. 613, page 619, "In order to aid and abet another to commit a crime it is necessary the defendant in some sort associate himself with the venture that he participates in it as in something that he wishes to bring about, that he seeks by his action to make it succeed."

Now, may it please the Court, with respect to Count 2 of the indictment, is it your Honor's understanding

of the record that we have not established, as far as the truth of the matter is concerned, established the approach by Medlin to Tippens?

THE COURT: I can see no evidence in the record on that count. Do you have any you wish --

MR. NEAL: (Interposing) We have put Tippens on to establish the approach, but --

THE COURT: (Interposing) I see no evidence in the record on that count.

MR. NEAL: I think then that we would have to agree that the government would have to take a judgment of acquittal as against Defendant Hoffa on Count 2.

THE COURT: All right.

MR. NEAL: May we make it clear for the record, your Honor, that does not in any way affect the Defendant Medlin?

THE COURT: Well, of course, it would only pertain to the defendant who is here on trial.

All right, is there anything further?

MR. BRANSTETTER: May I hand up an additional memo to the Court?

THE COURT: Yes, sir.

End 41
42 fls

Tk 42
H1

MR. NEAL: Yes, Your Honor, there is one more thing.

MR. BRANSTETTER: And may I--, excuse me. May I call the Court's attention to one case if I may. Cephlus, versus United States, 324 Fed. 2d 893.

MR. SILETS: Your Honor, as I understand the status of the record then Count No. 2 is now dismissed and the judgment of acquittal entered against on behalf of Mr. Hoffa on Count No. 2? Is that the order of the Court?

THE COURT: Well--

MR. NEAL: (Interposing) We're not moving.

MR. SILETS: I thought that was the motion of the government that they moved for entry of judgment for acquittal.

THE COURT: The Court has not formally ruled on the matter. I have indicated my understanding of the record reserving a formal ruling on all of these motions until I had an opportunity to study them. But I have indicated my understanding of the record there has been nothing said in the argument that would indicate that I have an erroneous understanding of the record in that respect.

MR. SILETS: As to Count 4 may I just respond for one moment? What Mr. Neal has apparently overlooked in Count 4 is that there is a specific endeavor alleged in the indictment. And that specific endeavor is that Mr. Tweel

42-2

was to--, that he got in touch with Hall so that Hall would communicate with jurors or others to communicate with jurors. We are not speaking about an endeavor in the void. As a result, his reliances, his argument is misplaced when he discusses motive or success. We're not disputing a line of cases involving success and motive plays no part here.

The issue is, has there been proof of this specific endeavor and was the endeavor itself corrupt?

That is the issue. When he cites the Russell case, Russell, in Russell,he had a situation where there was the wife of the juror who was contacted. We don't have any situation of that sort here. The thing that the Court should consider when considering this motion is has the specific allegation of the indictment been proven? And it has not because a specific allegation, specific endeavor was for Hall to communicate.

The indictment says a corrupt endeavor to obstruct justice in that Tweel got in touch with Hall to communicate with jurors or to get others to communicate with jurors. And that has not been proven because that can only be proven by the man who was contacted. That is Hall. And Hall does not say he was asked to do that.

As a consequence, no matter what kind of motive Mr. Neal may be claiming the proof establishes, the motive has no part in this and in this issue at this time.

MR. NEAL: May I say Your Honor, just momentarily, Mr. Silets does not read the indictment. This indictment which has been ruled upon as stating an offense and it has been proved in almost--, we have put on proof in almost word for word in the indictment. The indictment says that Nicholas Tweel did offer and promise money and things of value to Dallas Hall for the purpose, Your Honor, for the purpose of inducing Dallas Hall.

Now, Your Honor, based on these facts the jury is certainly entitled to infer the purpose of Nicholas Tweel.

THE COURT: All right. If there is nothing further--

MR. NEAL: (Interposing) One other thing, Your Honor. The witness Partin, I am told that he has with marshals present and so forth, endeavored assiduously to locate certain records called for in a subpoena duces tecum served on him by the defendants. He is here now. He would like to be relieved. If he could come in and explain what he has done, what he has found and so forth.

End 42

42A fol.

TK 42A
EW 1

MR. SILETS: My understanding was that these records were in Louisiana? And I thought that Mr. Partin has remained in Chattanooga. I am curious how he has assiduously made an effort to obtain these records from Chattanooga?

MR. NEAL: Let him and the marshals who helped him explain. I don't know.

THE COURT: Yes. I don't know how to handle this matter at this time of day. Is there any reason why he could not go ahead and return to Louisiana and remain under subpoena to be brought back here at such time as the parties may request and the Court may instruct?

MR. REDDY: I don't see why not, your Honor, no need of keeping him here.

MR. BRANSTETTER: If he brings records.

MR. NEAL: Have to tender him money. It is their subpoena.

THE COURT: Did they not make a tender of transportation from here? I understood from their tender of transportation from here down to Louisiana and back at the time?

MR. BRANSTETTER: It will be if it hasn't been.

THE COURT: Well, tender that.

MR. BRANSTETTER: It has been, may it please the Court.

42A 2

THE COURT: Tender that and the Court will instruct him--

MR. REDDY: (Interposing) Release him.

THE COURT: Release him until the Court instructs him to return.

MR. NEAL: One other matter, your Honor, we have now a detailed, point by point, answer to the varied motions for mistrial on surveillance and just to point out, your Honor, the absurdity and ridiculous mess of this thing, these photographs presented, your Honor, of alleged photographs alleged FBI agents, not one person in those pictures is an FBI agent. And we have the answer. Of all these strange automobiles they see lurking around at every corner, only one is an FBI car. So we have two different responses here, your Honor. We file the original with the Court and we serve copies.

With respect to the illegal activity, the only illegal activity involved in this proceeding is the illegal activity by this man Spindel in violating Section 605 of the Communications Act and perhaps by Mr. Schiffer in aiding and abetting, counseling, procuring, inducing, and procuring.

MR. SCHIFFER: I would like to expose you. You don't say that again unless you mean to back it up. I will meet you--

THE COURT: (Interposing) Mr. Schiffer. Mr.

Schiffer. Mr. Schiffer, just a moment now until one counsel completes--

MR. SCHIFFER: (Interposing) We will see who turns yellow first.

THE COURT: Mr. Schiffer, we will not have that sort of conversation in the--

MR. SCHIFFER: (Interposing) That is what he started.

THE COURT: Sir, we will not have that sort of conversation in this courtroom. Do you understand me?

MR. SCHIFFER: I understand you, Judge. He better curb his tongue, too.

MR. BERKE: Let's see, how many sets of these?

MR. NEAL: Copy for each defendant.

THE COURT: All right, anything further?

MR. REDDY: Nothing further for us, if your Honor please.

THE COURT: If nothing further, let's adjourn court until nine o'clock Monday morning.

(Thereupon, at 5:50 o'clock P.M., court was adjourned until 9 A.M., February 17, 1964.)

End of Tk 42A

REPORTER'S CERTIFICATE

I, Fred B. Downing, Official Court Reporter for theUnited States District Court, for the Eastern District of Tennessee, Southern Division, at Chattanooga, Tennessee hereby certify that Richard Smith and John E. Hamlin, court reporters, in accordance with stipulation of counsel for the parties filed in this case, recorded by machine shorthand the proceedings had in open court in the above styled case on February 14, 1964; and that said proceedings were reduced to typewriting under my supervision; and that the foregoing transcript is a true and correct transcript of the said proceedings to the best of my knowledge.

This the 14th day of February, 1964.

Fred B. Downing

Official Court Reporter

IN THE DISTRICT COURT OF THE UNITED STATES

EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

UNITED STATES OF AMERICA, :
:
Plaintiff. :
:
vs. : [redacted]
:
:
JAMES R. HOFFA, ET AL, : NO. 11,989
:
Defendants. :

Date: February 18, 1964

Chattanooga, Tennessee

Before: Honorable Frank W. Wilson, Judge

OFFICIAL TRANSCRIPT OF PROCEEDINGS

VOLUME XXIII

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TRIAL EXHIBITS

NUMBER	DESCRIPTION	For Ident.	In Evidence
172	Stock subscription agreement (Index to 2-17-64 proceedings)	5654	
173	Substitute marshals oaths	5668	
174	Check	5682	5825

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NUMBER	DESCRIPTION	For Ident.	In Evidence
175	Check	5682	5819
176	Telephone company record	5738	
177	Telephone company record	5745	
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Tk 1
Hl

TWENTY-SECOND DAY OF TRIAL

9:00 O'Clock A. M.
February 18, 1964

(Thereupon, pursuant to adjournment from February 17, 1964, court was in session.)

(Thereupon, the jury of 12 and 4 alternates remained excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

MR. SCHIFFER: If the Court please, I have a small request to make of the Court if I might at this time.

THE COURT: All right, Mr. Schiffer.

MR. SCHIFFER: Starting a fresh day here today, Judge, and I want to get something on the record that I believe was inadvertent yesterday.

THE COURT: All right.

MR. SCHIFFER: Yesterday the Court in front of the jury by long stares seemed to be chastising me when I felt that Mr. Neal was, if there was any guilt attached to the incident yesterday, that Mr. Neal had contributed his full share to it.

I was wondering if Your Honor would be kind enough to instruct the jury, who kept watching the Court, that there was nothing, no inference should be drawn from that.

THE COURT: All right.

MR. SCHIFFER: Thank you.

THE COURT: Just a moment, gentlemen. Let me clear up one or two things in the record. In the first place, there are some oaths of substitute deputy marshals.

MR. DALE: That will be 173.

(The oaths of the substitute deputy marshals referred to above were marked Collective Exhibit No. 173 for identification only.)

THE COURT: Now, then with regard to Exhibit No. 164, which was an affidavit of the witness Mr. Tweel and was admitted for identification purpose and it will be admitted for identification only except to the extent that it was read into the record.

In regard to Exhibit No. 170, being some legal documents or title opinions by the attorney. What was his name?

MR. NEAL: McNeer.

MR. HAGGERTY: McNeer.

THE COURT: Mr. McNeer. That will be introduced for identification purposes only.

In regard to the request for the Grand Jury minutes, the government will make available unto the counsel for Mr. Tweel a copy of his Grand Jury testimony.

MR. ALEXANDER: Now, does that include the statements that they referred to, the FBI examinations, Your Honor?

THE COURT: With regard to the FBI statements,

those should be submitted to the Court and the Court will reserve at this time on the FBI statements.

With regard to the motion to suppress filed on behalf of the Defendants the Court will allow a hearing upon that motion. That hearing, however, will be conducted at the conclusion of the testimony in the case but before any argument of the case to the jury.

With regard to the procedure in the examination of witnesses yesterday we followed an irregular procedure. The Court is of the opinion that the proper procedure is that the witnesses placed on the stand by the defense should be examined by all counsel for the defendants who desire to examine and then examined by the government with any redirect examination to follow that.

With regard to the witness Mr. Daniels, who is under subpoena, he has requested of the Court last evening, in the presence of Mr. Berke, and reported this morning that he is subpoenaed and is needed as a witness in a case being tried in Baton Rouge upon Thursday of this week.

The Court was, therefore, going to release him for that purpose but to report back here at such time as the defendants notify the Court that they--

MR. HAGGERTY: (Interposing) May I advise the Court that Mr. Daniels will be used as a witness today?

THE COURT: All right.

MR. HAGGERTY: But also that Mr. Daniels is a necessary and essential witness on the question of the motion to suppress.

THE COURT: All right. If you will just notify the Court of that. They need him as a witness there on Thursday and the defense can cooperate in making him available there on Thursday and then have him back here whenever he is further needed.

End 1

Tk 2 fol.

THE COURT: All right, gentlemen. Yes, Mr. Silets--

MR. GRADY: (Interposing) Your Honor, I have a motion I would like to get in the record, please.

THE COURT: Yes.

MR. GRADY: Your Honor will recall, and I would like to put this motion in a cohesive order to tie up the two elements.

I made a motion for a mistrial on behalf of Mr. Tweel after making the request when Mr. Partin was testifying that he be instructed to answer and not to interject prejudicial matters into the record. I believe specifically one of the things he said was that Mr. Tweel had something to do with bribing a judge in Louisiana. Of course, the proof showed he had never had any business in Louisiana at all. And that was just a malicious interjection.

We put in a motion for a mistrial on that sort of thing, plus the comments of Mr. Neal at that time, and asked the Court for an instruction and if he failed to obey the instruction hold him in contempt as the Court would normally do a witness if they failed to obey instructions. And on the basis of that and the fact that that wasn't done, we made a motion for a mistrial. We will pick that up in the record and put it with this and add it in the written motion.

Now, yesterday and I believe the jury looks to the Court for guidance in these cases, the transcript shows that Mr. Tweel, who is not an experienced man in court procedure, as Mr. Partin is, inadvertently referred to something outside of the evidence and the Court chastised him very severely and after that Mr. Neal said, may it please the Court, will your Honor instruct the jury these statements are not true. Nothing has been established like that.

Now, we would like to put these two things together and make them now and written as a motion for a mistrial for Mr. Tweel, as we feel that the combination establishes such prejudice in the minds of the jury that it makes it impossible for them to look, to view Mr. Tweel's case impartially.

THE COURT: Well, all right, allow that motion to be overruled.

MR. SILETS: Your Honor, I have filed with the Court separate motion to suppress alleging the possibility that there might be additional phone calls recorded between the Witness Partin and perhaps the Defendant Tweel and Dorfman or between Tweel and Dorfman.

THE COURT: All right. Just a moment, let me read the motion. All right, the Court will reserve any action on that motion until it has had an opportunity to study it further.

2 - 3

MR. BROWN: If your Honor please, yesterday morning we filed a motion on behalf of the Defendant King for the government to produce any tapes or recordings or any conversations made in that manner. They made no response. So, are we to assume by that that they have none? Or they do not intend to make a response? I understood the Court to advise the government counsel to make a response in all of these matters.

THE COURT: All right. Mr. Brown, I am not clear in my own mind exactly, was that a written motion that you filed?

MR. BROWN: Yes, sir, your Honor, yesterday morning.

THE COURT: Yes, there should be some written response filed to it.

MR. NEAL: Your Honor, I don't think we received any such thing.

MR. BROWN: You received a copy and I turned it over to the Clerk yesterday morning at this same time.

THE COURT: Did you give a copy to the defense?

MR. BROWN: Yes, your Honor, at the same time Mr. Schiffer filed it, I asked him would he take mine up there and give it to the Clerk and he gave the government a copy of them at that time. He may have thought it was his.

THE COURT: I was under the impression that was

joining in the motion to suppress.

MR. BROWN: No, sir, two different written motions. I asked him instead of both of us going around there to give mine to the Clerk.

MR. SILETS: As I understand it the Court is ruling upon the government to respond to each of these motions? And would that apply to my written motion filed this morning, your Honor?

THE COURT: Well, yes, let the Court have an opportunity to consider this motion first, Mr. Silets, and see what would be the appropriate thing to do.

MR. NEAL: May the record show we have turned over the grand jury testimony of Tweel to Tweel's attorney pursuant to the Court's direction and to the Court the report from which Mr. Hooker, the FBI report from which Mr. Hooker was examining Tweel.

MR. BROWN: Your Honor, I bring this to the Court's attention at this time. I am sure the Clerk can find those motions. We would like to have a response from the government before we start putting on our witnesses, our defense on.

THE COURT: Very well, let the government respond to that within a reasonable time. Not being too familiar with the motion I don't know exactly what time limitation to impose but let's check on that during the noon recess or during some appropriate recess and advise the Court

End Tk 2
Tk 3 fls.

MR. NEAL: If that was filed with us, we missed it somehow.

MR. BROWN: I have a copy of it.

THE COURT: All right. May we have the jury return and the witness called?

MR. BROWN: Does your Honor want to see a copy of this? I have another extra copy.

(Thereupon, the jury of 12 and 4 alternates returned into open court and the following further proceedings were had, to-wit:)

MR. SAULPAW: Show your right hand. You do solemnly that the evidence you will give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

MR. DORFMAN: I do.

THE COURT: Good morning, ladies and gentlemen of the jury. Ladies and gentlemen, at the inception of this trial I instructed the jury that this case was for trial as to one or more defendants upon four counts in the indictment, being Counts Nos. 2, 3, 4, and 5 of the indictment. I further instructed you with reference to the second count wherein Mr. James R. Hoffa and one Lawrence W. Medlin were charged but that with reference to Mr. Medlin's case that that case was not for trial at this time before this Court.

I would now further instruct you that the second

count no longer remains for trial by this jury as to the defendant Mr. Hoffa. This case remains for trial as to counts numbered 3, 4, and 5 as heretofore explained to you and as the Court will further instruct you at the conclusion of the case.

Mr. Silets.

ALLEN DORFMAN,

a defendant, called as a witness in his own behalf, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. SILETS:

Q Will you state your name, sir?

A Allen Dorfman.

Q Where do you reside, Mr. Dorfman?

A In Deerfield, Illinois.

Q What is your business, Mr. Dorfman?

A The insurance business.

Q Are you married?

A Yes, I am.

Q Do you have any children?

A I have three lovely children, eleven, nine, and seven, and one about to be born in about 30 days.

Q 30 days. Can you tell the jury a little bit about your background, sir?

A Yes. I attended a high school in Chicago, Illinois;

I attended the University of Illinois, graduated at the University of Illinois with a bachelor of science degree.

I then enlisted in the United States Marine Corps, served in the South Pacific and attained the rank of Captain. I was wounded in the battle of Iwo Jima and sent back to the United States in 1946.

Q Is that when you were discharged from the Marine Corps?

A And I was honorably discharged from the Marine Corps at that time.

Q What did you do after you left the service?

A I went to work as an instructor at the University of Illinois in the School of Physical Education.

Q Now, was it following your teaching at the University of Illinois that you went into the insurance business?

A Yes, sir.

Q Mr. Dorfman, do you belong to any organizations?

A Yes. I belong to the Military Order of the Purple Heart, the Military Order of the World Wars, the Navy League, the Marine Corps Reserve Officers Association, the Moose, and many other fraternal organizations.

Q Do you know Mr. Nicholas Tweel?

A Yes, I do.

Q Will you tell us how you first met Mr. Tweel?

A I met Mr. Tweel in the early part of 1962 in connection with a cigarette company that he owned by the name of Continental Cigarette. It was a cigarette company that was going to produce a matchless cigarette or a self-lighting cigarette, something very unique in the market.

Q You mean a cigarette where you didn't need a match to light?

A That's correct. You would just strike it on the cover.

Q And at that time were you to participate in the distribution of that cigarette?

A Yes, we were to have the distribution for that cigarette in the midwestern part of the United States and the South Americas.

Q Now, in contemplation of that possible distribution and distributorship, did you ever confer with Mr. Tweel or speak to him on the telephone?

A Yes, on several occasions.

Q You say you spoke to him and saw him, is that right?

A Yes, I met him in New York.

Q Now, who else was present when you would meet him or you did meet him in New York?

A Mr. James Kalil.

Q And who was Mr. Kalil?

A Mr. Kalil is a representative of some of the companies that I am associated with.

Q And to your knowledge did Mr. Kalil have contacts with Mr. Tweel as your representative?

A Oh, yes, on many occasions.

Q Now, after you became acquainted with Mr. Tweel through this Continental Tobacco transaction, did you ever discuss with him the obtaining of a loan for the Suffolk Downs racetrack?

A Yes, I did. I met with Mr. Tweel and Mr. Saul Silberman and Mr. Al Behrin and Mr. James Kalil in Miami, Florida.

Q Well, now, you have told us who Mr. Kalil is. Will you tell us who Mr. Silberman is?

A Mr. Silberman is the owner of Tropical Park racetrack in Miami, Florida.

Q And who is Mr. Al Behrin?

A Mr. Behrin is an attorney-at-law from Illinois, specializing in real estate.

Q He is an attorney?

A Yes, sir.

Q Now, is that the only time you met these people with respect to the Suffolk Downs racetrack?

A No, I met these gentlemen in New York City and in Chicago at my office.

Q Now, could you tell us just approximately when these meetings took place?

A The summer of 1962, June and July.

Q Mr. Dorfman, in addition to this Continental Tobacco transaction and the possible loan for Suffolk Downs racetrack, did you ever discuss with Mr. Tweel the organization of a company known as the American Hemisphere Life Insurance Company?

A Yes, sir, on many occasions.

Q Did you ever meet with him concerning that?

A Yes, I have.

End 3
4 fls

Q Now, particularly, did you go to Huntington, West Virginia on or about October 12, 1962 and meet with Mr. Tweel?

A Yes, I did. Huntington, West Virginia on October 12, 1962 pursuant to that meeting that was arranged in Huntington with the Board of Directors.

Q Now, that was a formal meeting, wasn't it?

A Yes, it was.

Q With a planned agenda?

A Yes.

Q Now, at that time did Mr. Tweel mention to you the possibility of the arranging of loans on other properties?

A Yes. Mr. Tweel and myself went to look at twc pieces of property in Huntington, West Virginia. The West Virginia Building and the Pritchard Hotel.

Q However, the primary purpose of your being in Huntington was to discuss this insurance company. Is that right?

A That's correct.

Q Well, what role were you to play in the establishment of this company? This American Hemisphere Life?

A Well, the Amalgamated Insurance Services, which is a company that myself and my family own, was to become the exclusive service agency for the American Hemisphere Life.

Q Well, can you tell the jury what an exclusive

service agency is?

A Yes, it is an agency that is responsible for the administration in the company as well as servicing of all the claims. We were to set up the general managerial function of this company.

Q Will you mark this one first, these two.

THE CLERK: No. 174 and No. 175.

(Two checks referred to above were marked for identification as Exhibit No. 174 and No. 175.)

BY MR. SILETS:

Q Now, Mr. Dorfman, the marshal is handing you there what is marked as Exhibit No. 174 which appears to be a check issued to Mr. Kalil sometime in July, 1962, what is the date on that check, Mr. Dorfman?

A July 5, 1962.

Q And what is the sum on the check?

A $11,500.00.

Q Now, who issued the check?

A The Amalgamated Insurance Services, Inc.

Q Is that the same company that you and your family control?

A That's correct.

Q Now, do you know what that check was issued for?

A Yes, that was a loan to Mr. Kalil for the purchase of stock in the American Hemisphere Life Insurance Company.

Q Could you tell the jury why Amalgamated Insurance Services loaned Mr. Kalil that money?

A Yes. Mr. Kalil was supposed to deliver to us an exclusive service agent arrangement with the company.

Q That is the arrangement you described a moment ago?

A That's correct.

Q And can you tell the jury how he was going to do that? How was it to be accomplished?

A Yes. Mr. Kalil, Mr. Tweel and Mr. Saul Schwartz would have had control of this company and through control they would have been in a position to at all times have maintained their service agreement with Amalgamated.

Q Who is Mr. Schwartz?

A Mr. Schwartz is an associate of mine and a partner in the insurance business.

Q Is he a partner of yours in the Southwest Insurance Agency?

A Yes, he is.

Q Do you know if he also purchased shares of stock or subscribed to shares of stock in this American Hemisphere Life?

A Yes, he did.

Q Now, I show you or the marshal will show you what is marked as Exhibit No. 175. Now, that appears to be a

check to a Mr. Cogar in the sum of $625.00, isn't that right?

A That's correct.

Q And do you know what that check is issued for?

A For the purchase of stock in the American Hemisphere Life.

Q And that was the same purchase with respect to Mr. Schwartz participation in the company?

A That's correct.

Q Now, Mr. Dorfman, what was accomplished at this meeting in October, October 12, in Huntington, West Virginia?

A Well, there was an election of Board of Directors. The officers were selected. There was a formal agenda laid out. Resolutions were adopted and procedures under which the company was going to operate.

Q Was there also a discussion concerning the possibility of selling shares in this company to the general public?

A Yes, one of the main discussions was the S.E.C. registration of this company so that they could raise the necessary capital and go public so that the public could buy stock in this company.

Q Well, the S.E.C., do you mean the Securities Exchange Commission?

A That's correct.

Q And they are the organization that is, the

government organization that controls the right of companies to sell shares of stock to the public?

A Yes, they are.

Q Now when the S.E.C. would approve the sale of the shares of stock, was there to be any more money loaned to Mr. Kalil?

A Yes, Amalgamated would have had to loan Mr. Kalil another $11,250.00.

Q And is that part of the same understanding or to make sure Amalgamated was to get this servicing company?

A Absolutely. That is the only conditions under which this money was paid to him.

Q Now, was there any problem, did any problem arise in getting approval from the government to sell the shares to the public?

A Yes, quite a few problems arose.

Q Well, can you tell the jury what the main problem was?

A Well, the main problem was that they claimed that there was too much stock vested within three people. And they wanted a diversification of this stock to third parties. I wouldn't consent to this diversification because it would jeopardize Amalgamated Company's control in the company. Conceivably would lose control of it.

Q If lost control, couldn't get that servicing

agreement or at least be assured of it?

A That's right.

Q Now, because of this did you have occasion to speak to Mr. Tweel again?

A On several occasions.

Q Did you meet with him?

A Yes, I did.

Q Now, specifically did you have occasion to meet with him in Nashville, Tennessee?

A Yes, I did.

Q Now, can you tell the jury how that was arranged?

A Yes. I called Mr. Tweel at his home in Huntington, West Virginia on the 21st of October and asked him if he would please meet me in Nashville, Tennessee. We originally planned on meeting in New York City. But I had received a telephone call from Mr. Hoffa requesting that I have certain documents brought down to Nashville in conjunction with his trial. These were papers that I had custody and control of. And so I had to deliver those papers to Nashville, Tennessee.

Q Now, we've heard here a lot of testimony since the trial started or at least there were pre-trial motions in Nashville on the 22nd, now according to the calendar I believe the 22nd is a Monday. Is that right?

A That's right.

Q Now you say Mr. Hoffa called you, can you fix it

in terms of relation to the 22nd?

A Yes. The first call I got from Mr. Hoffa was on the 20th of October.

Q That would have been a Saturday?

A That's right. Saturday evening.

End 4

Tk 5 fol.

Q And when was it you called Mr. Tweel to tell him that you had to be in Nashville?

A I called Mr. Tweel Sunday morning.

Q That would be the 21st?

A On the 21st.

Q Now, do you recall how you happened to get to Nashville on the 21st?

A Yes, sir, I chartered a plane at O'Hare Field in Chicago.

Q And you flew to Nashville in this chartered plane?

A That is correct.

Q Now, did you meet with Mr. Tweel on that Sunday in Nashville?

A I arrived rather late, as I recall, in the evening. I called Mr. Tweel in his room and I saw him for a few moments. I was rather tired and I told him I would meet with him the following day.

Q Then on Sunday you didn't have any discussions with him?

A No.

Q Well, did you discuss with him the progress of American Hemisphere Life while you and he were both in Nashville?

A Oh, yes, the following day Mr. Tweel and I met at the courthouse in Nashville, Tennessee, and we discussed

at length the problems that we were running into and on the way back from the courthouse, walking back to the Andrew Jackson Hotel, Mr. Tweel and I had lengthy conversations.

Q Now, Mr. Tweel yesterday testified that you also had some conversation in the lobby, is that true also?

A Yes. We sat down in the lobby of the Andrew Jackson on one of the couches there.

Q Now, can you tell the jury approximately what time you left Nashville on that first day of the trial, the 22nd?

A I left Nashville on the 22nd around one o'clock in the afternoon.

Q By the way, you did deliver those records?

A Yes, sir, I did.

Q Now, on this occasion when you were walking back with Mr. Tweel and when you were in the lobby did you discuss anything, any particular problem?

A Yes. We discussed the SEC problem and Mr. Tweel wanted some recommendations from me and my possible consent of relinquishing some of the shares of stock that Mr. Kalil had custody and control over. I said I would have to give that some very serious consideration because otherwise we would lose control of our servicing agreement, which was contrary to the reason why we invested in this company.

Q Mr. Dorfman, did you ever talk to Mr. Tweel after

that, did you call him on the telephone or did he call you?

A Yes, on several occasions.

Q And did you discuss this same problem again?

A Yes, we sure did, we were talking about substantial sums of money.

Q Now, by the way, while this problem was still trying to be ironed out, isn't it true that you and Mr. Tweel were indicted in this case?

A Yes, we were.

Q As a matter of fact, that indictment was returned on or about May 9th, isn't that right?

A That is correct.

Q Now, directing your attention to two days later after the indictment was returned, wasn't there a special meeting of the shareholders of the insurance company and the insurance company was dissolved?

A That's correct, on May 11th the insurance company was dissolved.

MR. SILETS: May I have those brochures? No, no, these.

BY MR. SILETS:

Q Mr. Dorfman, the marshal is handing you two documents that have already been admitted in evidence and they are Exhibits 165 and 166. Now, have you ever seen those before?

A Yes, I have, sir.

Q And when was the first time you saw them?

A Some time during the middle part of November.

Q Can you tell the jury what they are?

A They are a prospectus of the West Virginia Building and the Pritchard Hotel in Huntington, West Virginia.

Q Now, were those submitted to you by anyone?

A Yes, they were submitted to me by Mr. Tweel.

Q And do you know the purpose for his submitting them to you?

A Yes, he wanted to secure a loan on these properties.

Q Is that the same loan and the same properties that you had discussed on October 12th when the insurance company meeting was taking place in Huntington?

A That is correct, sir.

Q Now, when you received these from Mr. Tweel some time the middle of November of 1962, what did you do with them?

A I turned these proposals over to Mr. Al Behrin, who I mentioned before as an attorney and a real estate expert in Chicago. He was to make an analysis of these properties and the feasibility for a loan on them.

Q Now, is this the first time that you went to Mr. Behrin for his opinion about the possibility or the

feasibility of obtaining a loan?

A Oh, no, I have gone to Mr. Behrin on many occasions.

Q Well, what was Mr. Behrin's professional opinion about the possibility of getting a loan on these properties?

A Well, it would be possible providing we were furnished with a complete analysis of the properties. We had to have an appraisal and an appraisal didn't accompany these reports.

Q Well, just so the jury is clear, what do you mean by an appraisal?

A Well, it's an evaluation of the land, real estate and buildings, contents, complete appraisal, it's an AMI appraisal.

Q And Mr. Behrin conveyed this necessity to you and told you that this was needed?

A Yes, he did in order to complete his job.

Q Well, to the best of your recollection, can you tell us approximately when he so advised you that he didn't have enough information?

A The latter part of November.

Q That would be 1962?

A 1962.

Q Now, when you learned from Mr. Behrin that this information supplied by Mr. Tweel wasn't enough to determine

whether the loans were possible or not, what did you do, if anything?

A I made a call to Mr. Tweel.

Q And you phoned him long distance?

A Yes, I did.

Q Was that the only subject of your conversation with him?

A No, the other subject was the insurance company because we were getting a little out of date now and we had to get into progress immediately.

Q That would have been some time in the latter part of November of '62?

A That is correct.

Q Now, Mr. Dorfman, we all saw a man named E. G. Partin on the stand for quite a few days. Do you know Mr. Partin?

A Yes, I met Mr. Partin.

Q Now, specifically I direct your attention to the first day of the trial of the Hoffa case in Nashville, October 22nd, when you were in the lobby with Mr. Tweel. Did you have occasion to see Mr. Partin?

A Yes. Mr. Partin walked over and introduced himself to me, I introduced Mr. Partin to Mr. Tweel and I left shortly thereafter because I had to get my plane.

Q As I recall your testimony, you said the plane

left around one o'clock?

A That is right, sir.

Q Now, did you see Mr. Partin after that during the course of the trial or when you were in Nashville?

A Yes, I have seen him on occasions in Nashville.

Q Now, specifically, Mr. Dorfman, do you recall an occasion that has been testified to here during the course of that trial in Nashville when a large group of men, including yourself and Mr. Hoffa and some attorneys for Mr. Hoffa, had occasion tc eat at a restaurant known as O'Brien's Beefery?

A Oh, yes, we have eaten there on many occasions.

Q Well, now, specifically do you recall the occasion that was testified to when a lot of you walked back from the restaurant and some stopped at a railroad station?

A Yes, I do.

Q Can you tell us something about what happened then?

A Yes, we had left O'Brien's Beefery after having had a rather large meal and we usually walked back to the Andrew Jackson Hotel.

On the way back we passed the railroad station, which is quite a structure in Nashville, Tennessee.

Q You mean it's--is it a new one or it's an old one?

A No, it's quite old, I would say, and we were

talking about the--actually the wasted monies that were put into these properties years ago with the wasted space and actually comments were made what a nice truck terminal this would make. Then there was a discussion as to the height of the ceilings and all kinds of bets as to the distance and so on.

Q Do you remember, by the way, Mr. Partin eating with you at O'Brien's?

A I have no recollection of Mr. Partin eating with me at O'Brien's.

Q Well, do you recall making any phone calls from O'Brien's?

A I have no recollection of making phone calls from O'Brien's.

Q Well, do you remember making a call from the railroad station?

A Yes, I do.

Q And who did you call?

A I called Mr. Nicholas Tweel.

Q Did you have a conversation with him at that time?

A It was very brief because I couldn't hear him and he couldn't hear me, there was all kinds of static on the phone.

Q You mean it was a bad connection?

A Yes, very bad.

Q Did you ever have an occasion or the occasion present itself that you would tell Mr. Hoffa that you had made that call?

A I would have no reason to tell Mr. Hoffa about that call.

Q Well, after you left the railroad station did you call Mr. Tweel a few minutes later?

A Yes. I called Mr. Tweel about 10 or 15 minutes later from a phone booth further on down the street.

Q Was Mr. Partin with you?

A He was not.

Q Tell the jury why you would call Mr. Tweel from a railroad station and from a phone booth?

A Well, when I have some business to take care of I take care of it right now. It so happened it was convenient at the railroad station and I called him. The connection was bad and I said, "All right, I will call you back in about 20 minutes," which is exactly what I did, which is not unusual, I do this quite often.

Q This is not unusual for you?

A No, quite to the contrary.

End Tk 5
T' 6 fls.

Q Did you read a jury list to Mr. Tweel over the phone?
A Absolutely not.
Q Did you read a list to anybody over the phone?
A No, I did not.
Q Do you recall what this conversation was about?
A Yes, we talked about the loans on the buildings and the insurance company and particularly the S.E.C. filings.
Q Was this the conversation where you informed him about the necessity of appraisals?
A Yes, sir. We had to had an appraisal on the property in order for us to proceed further with it.
Q Mr. Dorfman, did you ever meet a man named Dallas Hall?
A I never met Mr. Dallas Hall.
Q When was the first time you heard of Dallas Hall?
A The first time I heard of Dallas Hall is when I read the name in the indictment which I was indicted under.
Q Yes, his name is in the indictment, isn't it?
A Yes, it is.
Q Well, were you ever at the Sportsman's Bar in Nashville?
A Never at the Sportsman's Bar in Nashville.
Q Do you know Hazel Fulton?
A I do not know Hazel Fulton.

Q When was the first time you saw Mrs. Fulton?

A When she was sitting right on this stand here.

Q Did you ever speak to her on the telephone?

A Not to my knowledge.

Q Is it possible that you may have spoken to a woman or someone in Mr. Tweel's office?

A Yes, but I wouldn't know if that was Hazel Fulton or not.

Q Have you ever told Mr. Partin to call Mr. Tweel for any purpose whatsoever?

A Never.

Q Have you ever given Mr. Partin Mr. Tweel's telephone number?

A No, I didn't.

Q Have you ever phoned Mr. Partin?

A Not to my knowledge.

Q Has Mr. Partin ever phoned you?

A I think Mr. Partin called me one time in 1962 pertaining to his bond and it was the only call I ever got from Mr. Partin.

Q Is that the bond on the 26-count federal indictment?

A Yes, it is.

Q What, if anything, did you have to do with getting that bond?

A I arranged for that bond through some friends of mine in Florida to be placed on Mr. Partin. That is the extent to which I had to do with his bond.

Q This generally is a function of the insurance business, getting bonds?

A Yes, it is. It requires a licensed man in the area.

Q Now, did you ever discuss a jury list with Mr. Tweel?

A I never discussed a jury list with Mr. Tweel.

Q Now, do you recall Mr. Tweel's testimony that he may have seen a list of the panel in the courthouse on the first day of trial?

A Yes, but I have no recollection of looking at that panel. We may have, but I have no recollection of it.

Q Mr. Dorfman, did you ever before this indictment was returned ever tell Mr. Hoffa about your acquaintanceship and your business relationship with Mr. Tweel?

A No. I would have no reason to.

Q Did you ever ask Mr. Tweel or anybody to do anything improper concerning the Hoffa jury?

A Absolutely not.

Q Now, Mr. Dorfman, besides the indictment in this case have you ever in your life ever been charged with any crime?

A Never.

Q Mr. Dorfman, are you innocent of these charges?

A Yes, I am.

MR. SILETS: Your witness.

THE COURT: Is there any further examination by any defense counsel? All right, the government wish to examine the witness?

CROSS EXAMINATION

BY MR. NEAL:

Q Mr. Dorfman, I believe you said you are in the insurance business, is that correct?

A Yes, sir.

Q You have several companies?

A I have quite a few companies.

Q Quite a few companies, how many?

A Oh, I would say about seven or eight.

Q Just seven or eight?

A Yes, sir.

Q That is all?

A Well, if I have any more you better tell me about them.

Q Well, do you have any more?

MR. SILETS: Your Honor, hasn't he answered that?

THE WITNESS: I don't know. Maybe I do.

BY MR. NEAL:

Q You don't know whether you have more or not?

A I may and I may not.

Q You may have more than seven or eight and you don't know?

A If I do, Mr. Neal, you better tell me about them.

Q Well, are you denying you may or may have or you don't know?

MR. SILETS: Your Honor, isn't he badgering Mr. Dorfman?

THE WITNESS: I may have seven or eight.

THE COURT: Overrule the objection.

BY MR. NEAL:

Q Do you have more?

A I don't know, sir.

Q Pardon me?

A I don't know, sir.

Q Do you deny that you have more?

A I don't think so.

Q Pardon me?

A I just don't think so.

Q Are you denying it?

A I am not denying it. I just don't think so. If I have any more, you better tell me about them.

Q When did you get in the insurance business?

A In 1948.

Q 1948, wasn't it?

A Yes.

Q Up until that time you were teaching physical education?

A That's correct.

Q When did you meet Mr. Hoffa?

A In 1947 or 1948.

Q 1947 or 1948, when did you get the Teamsters' business as part of your insurance?

A In 1950.

Q 1950, how much money did you make annually between 1946 and --

MR. SILETS: (Interposing) Your Honor, objection, this has no relevancy.

MR. NEAL: And 1950?

THE COURT: Sustain the objection.

MR. NEAL: Your Honor, could I ask approximately? I want to show bias and prejudice here.

MR. SILETS: He is not on trial for having made a living, your Honor.

THE COURT: Sustain the objection to the question as asked.

BY MR. NEAL:

Q Isn't it true, sir, that from the point you met Mr. Hoffa on your income increased about a thousand percent?

MR. SILETS: Objection, your Honor.

THE COURT: Overrule that objection.

THE WITNESS: I don't what you mean by a thousand percent.

BY MR. NEAL:

Q All right, ten times what it was before?

A I don't know what you mean by ten times.

Q Well, didn't your annual income jump ten times what it was before you met Mr. Hoffa?

A My annual income increased.

MR. SILETS: Objection, your Honor.

BY MR. NEAL:

Q Pardon me?

A My annual income increased.

Q Didn't it increase ten times?

A I don't know what you mean by ten times.

Q If you made $5,000 before and jumped to $50,000 after you met Mr. Hoffa?

A I don't think your figures are correct.

Q Pardon me?

A I don't think your figures are correct.

Q You have no idea?

A You would have to show me the figures.

Q I would have to show you the figures?

A Yes.

Q You don't know, you say it increased, tell us how much it increased.

A I would have no knowledge of how much it increased.

MR. SILETS: Your Honor, this is the basis for my objection, he is going to try to elicit from him his income and then probably his expenses and so on. This isn't an income tax case.

MR. NEAL: No, I don't want to know that, your Honor. If he will tell me how much increase after he met Mr. Hoffa, I will stop with it.

THE COURT: Overrule the objection.

BY MR. NEAL:

Q Would you tell me, Mr. Dorfman?

A I would have no idea how much it increased.

Q Did it increase three times as much as it was?

A It increased substantially.

Q Three times as much as it was before?

A If you want to use the words three times --

MR. SILETS: (Interposing) Your Honor, if the Court please, the witness said that he has no knowledge, he can't recall, is Mr. Neal going to now say fifty times, a thousand times, and go on? I mean this is badgering the witness. He is arguing with the witness. He answered the question.

MR. NEAL: Your Honor, the government did not

object one time during the whole course of Mr. Dorfman's testimony.

THE COURT: Overrule the objection.

BY MR. NEAL:

Q You said three times, how about five times?

A Conceivably five times.

Q How about seven times?

A Well, you are asking me to guess now, Mr. Neal, and I --

Q (Interposing) Then we will stop. We will say five times what it was just before you met Mr. Hoffa resulted in the fact that you got the Teamsters' insurance business, didn't it?

A Pardon me?

Q That resulted from the fact that you got the Teamsters' insurance business? Health and welfare business?

End 6
6a fls
6a

A No, Mr. Neal, your facts aren't facts. As a matter of fact, the first business I wrote was not the Teamsters' business.

Q But after you met Mr. Hoffa you got the Teamster's business, didn't you?

A I got that through competitive bidding.

Q Competitive bidding?

A Yes, sir.

Q As a matter of fact, your company was not the

lowest bid, was it?

A Oh, quite to the contrary. The Pacific Mutual Company was a company that had gone defunct and that is the reason we were included.

Q Your company was not the lowest bid, is that right, or are you saying it was?

A Differential of five cents.

Q Pardon me?

A Differential of five cents.

Q And your company was not the lowest?

A Yes, sir. Lowest according to the trustees.

Q Pardon me?

A According to the trustees.

Q According to the trustees, who are the trustees?

A Health and welfare.

Q Who are the trustees? Mr. Hoffa was chairman of those trustees?

A At that time I don't believe Mr. Hoffa was.

Q Are you sure?

A I don't believe so.

Q Hoffa was on the board of trustees?

A Yes.

Q And according to him yours was the lowest bid?

MR. SILETS: Objection, your Honor. He didn't state according to Mr. Hoffa. Said the board. Mr. Neal knows

very well the board in this case includes 15 or 16 persons.

BY MR. NEAL:

Q Do you know Mr. Hoffa now to be chairman of that board of trustees the one you are talking about?

A He is now, yes, sir.

Q Now, sir?

A No, Mr. Hoffa is not chairman of that.

Q Pardon me?

A Mr. Hoffa is not chairman of that board.

Q He is not?

A No. There is a chairman elected at each term at each meeting.

Q He is not chairman now?

A Not to my knowledge.

Q You want to deny that he is chairman?

A I don't want to deny that he is chairman.

Q Now, Mr. Dorfman, when did you go in your first business venture with Mr. Hoffa?

A First business venture I went in with Mr. Hoffa I believe was in 1949.

Q What was that?

A It was a camp up in Wisconsin.

Q What was the name of the camp?

A I believe it was the Whispering Pines Ranch camp.

Q Whispering Pines Ranch camp?

A Yes, sir.
Q That was a profit organization? I mean you were going into that for a profit, weren't you?
A Pardon?
Q Did you invest in that?
A Actually never materialized.
Q Well, did you put up any money to invest in it?
A Yes, we put up some money to invest in it.
Q Mr. Hoffa put up some money to invest in it?
A Yes, he did.
Q Where did his money come from?
MR. SILETS: Objection, your Honor.
THE COURT: Sustained.
BY MR. NEAL:
Q But you were partners in that or you were going to be partners in that?
MR. SILETS: Your Honor, what is the relevancy of this? I mean, it is not part of the scope of the direct examination. If Mr. Neal wants to establish that he knows Mr. Hoffa, we'll admit that he knows Mr. Hoffa. And that there is no secret about that. But going back to ancient history, what purpose is served by it?
THE COURT: Overrule the objection.
BY MR. NEAL:
Q What was your next business venture with Mr.

Hoffa?

A I believe we invested in the Northwestern Oil Company.

Q Northwestern Oil Company?

A Yes.

Q You and Hoffa were partners in that, weren't you?

A I believe it was a joint venture or partnership.

Q Well, same thing, isn't it?

A Something like that.

Q When was your next business venture with Hoffa?

A The Jack-O-Lantern Lodge was, I guess, the next venture which was --

End 6a
7 fls

Q You were partners in that with him, weren't you?
A Yes.
Q What is your next one?
A I don't believe there were any more.
Q Pardon me?
A I don't believe there were any more.
Q You don't believe there were any more?
A No.
Q All right, sir. Now, you said you met the Defendant Tweel in the early part of 1962. Excuse me, strike that just a moment.

You said you were in the insurance business?
A That's correct.
Q Your companies doing any business in the State of Michigan right now?
A Yes, they are.
Q They are?
A Yes, they are.
Q Do you have a license to do business in that state?
A Do I have a license to do business?
Q Well, your company.
A The companies that I am doing business with have a license to do business in that state.
Q Do you have a license to do business in that state?

A Do I personally?

Q Yes.

A No, I do not.

Q Did you ever have?

A Yes, sir, I did.

MR. SILETS: Your Honor--

Q (Interposing) Pardon me?

MR. SILETS: Your Honor, if the Court please, Mr. Neal knows that he is going in--

THE COURT: (Interposing) Sustained.

MR. NEAL: Your Honor, he opened up his insurance business. I want to ask him some questions about the insurance business.

THE COURT: I have sustained the objection to the specific question about his having a license.

MR. NEAL: All right.

BY MR. NEAL:

Q Did you ever have a license to do business in the state of Michigan?

MR. SILETS: Objection, Your Honor, the same problem.

MR. NEAL: I don't want to ignore the Court's rulings, I didn't think that was the same. I will wait for a direction.

MR. SILETS: Precisely the same thing.

THE COURT: Sustain the objection to the question.

BY MR. NEAL:

Q Well, let me ask this question. Do you now have a license to do business in the state of Michigan?

MR. SILETS: Your Honor, I mean is Mr. Neal trying to subvert the orders of the Court?

MR. NEAL: No, I am not.

THE COURT: Overrule the objection to that.

BY MR. NEAL:

Q Do you now have a license to do business in the state of Michigan?

A No, I do not.

Q What happened to that license?

MR. SILETS: Your Honor, I object again. Mr. Neal is trying to get into an area that has no relevancy and he knows it's not pertinent to the issue here.

MR. NEAL: Your Honor, I didn't think the Pritchard Hotel business, the insurance business, all of this was relevant but he opened it up.

THE COURT: I am going to overrule the objection. I am unable to see the relevancy at this time.

BY MR. NEAL:

Q What happened to your license you had to do business in the State of Michigan?

A Well, the state of Michigan, which is an

administrative body, choose to revoke my license because of an investigation by Mr. Robert Kennedy.

Q Mr. Robert Kennedy in the state of Michigan?

A Mr. Robert Kennedy was the one that instigated this revocation, not the Michigan Insurance Department.

Q Well, who revoked it?

A The Michigan Insurance Department.

Q Michigan, the state?

A That's right.

Q Isn't that right?

A That's correct.

Q Now, you say you met Mr. Tweel, the defendant Tweel, in New York, is that correct?

A That is right.

Q Who was present with you in that meeting in New York?

A Which meeting in New York?

Q Well, the meeting you met--, the New York--, you were in New York more than once on this?

A I have been in New York on many occasions.

Q Well, I was thinking about the time that you testified about on direct you met Tweel in New York.

A Regarding the Continental Tobacco?

Q Well, did you meet him there regarding something else?

A Well, I met him there on several occasions.

Q Well, who was present on any one occasion?

A Well, regarding Continental Tobacco Mr. Kalil was present.

Q Who else?

A I believe that was the only one that was present was Mr. Kalil.

Q The only one?

A Yes.

Q All right. How about the next time?

A The next time I met Mr. Tweel was Mr. Saul Silverman, Mr. Kalil, myself, I don't remember who else was there.

Q You don't recall?

A No, I don't.

Q Do you know a man by the name of Mr. Al Dirisio?

A Who?

Q Al Dirizio.

A Sounds familiar but I don't--

Q (Interposing) Are you saying to me, sir, that you don't know a Mr. Al Dirizio?

A Tell me who he is.

Q Pardon me?

A Tell me who he is so I can--

Q (Interposing) He goes by the name of Milwaukee

Phil.

MR. SILETS: Objection, Your Honor.

MR. SCHIFFER: I move for a mistrial, Your Honor. Now, he certainly has gone far beyond the limits now. He is seeking by these questions to prejudice this jury, Your Honor, and so far as the Defendant Parks is concerned I now move for a mistrial. He knows it's improper but he persists in going along this line. All I can do is protect the record now.

THE COURT: Overruled.

MR. SILETS: Your Honor, I, on behalf of Mr. Dorfman, I think that Mr. Neal should be circumscribed somewhat in this. He knows that it is totally improper. I don't know Milwaukee Phil from One-Eyed Jack and neither does he. Now, but to leave an inference with the jury about somebody called Milwaukee Phil or Gimpey Pete or something that has nothing to do with this lawsuit and he knows it.

MR. BRANSTETTER: May it please the Court, on behalf of the Defendant Campbell and because of the injection of this improper material on cross examination I move for a mistrial.

MR. SILETS: On behalf of the Defendant Dorfman too, Your Honor.

MR. GRADY: On behalf of the Defendant Tweel we also.

MR. HAGGERTY: On behalf of the Defendant Hoffa I join in such a motion.

THE COURT: All right.

MR. BROWN: The Defendant King also.

THE COURT: All right. Allow all of the motions to be overruled.

MR. SILETS: Can we have an order on Mr. Neal that he restrain himself into the balance of propriety and conduct himself in this examination as he knows he should?

THE COURT: Well, let's proceed. Make objection.

BY MR. NEAL:

Q Does that acquaint you with the man?

A I know who you mean now, yes.

Q You know who I mean now, don't you?

A Yes, I do.

Q Was he in New York with you?

A No, he was not.

Q Did he go to New York with you?

A No, he did not.

Q He was not there at that meeting?

A No, he was not.

MR. SCHIFFER: Well, at this point, Your Honor, I demand that Mr. Neal to show his good faith with this court and this jury now produce the physical evidence which must be in his possession to justify the question he asked.

Now, if he can't put up now and show to this Court's satisfaction and exhibit to the jury that he has the evidence in his possession, physical evidence which shows that Mr. Milwaukee Phil or Gimpey Pete, I forget what the whole name is now, was actually with Mr. Dorfman then I move that the answer be stricken, the question be stricken, the answer be stricken, and the jury cautioned and certainly advised that they should disregard all of his testimony and in addition if he can't put up now I move for a mistrial for Mr. Parks because if he can't put up, and he is deliberately now inserting matter with bad faith with this court and with this jury--

MR. SILETS: I join in that, Your Honor.

MR. BRANSTETTER: I join also for Mr. Campbell.

MR. HAGGERTY: I join in the motion on behalf of the Defendant Hoffa.

THE COURT: All right.

MR. ALEXANDER: On behalf of the Defendant Tweel.

MR. BROWN: All defendants to the motion.

THE COURT: Allow the motion to be overruled.

BY MR. NEAL:

Q Now, Mr. Dorfman, you said Mr. Kalil was present at one of these meetings. Mr. Kalil, James Kalil, of Detroit?

A Yes, he is.

Q Does he handle your business in Detroit?
A He handles some of our business.
Q Pardon me?
A He handles some of our business.
Q Does he service your Teamster business?
A Some of it, yes, sir.
Q Pardon me?
A Some of it, yes.
Q He is a close friend of the Defendant Hoffa, isn't he?
A Well, he's a friend of Mr. Hoffa.
Q Works as a part-time policeman on the Detroit police force?
A I don't know if he works part-time or full-time.
Q A full-time policeman?
A Could be, I don't know.
Q Pardon me?
A Could be, I don't know.
Q Now, you say that you were going to be the exclusive agent for this American Hemisphere Life, you were going to get the Teamster business for that as you had for your other companies?
A Well, Mr. Neal, I am sure you are familiar with the insurance business.
Q No, I am afraid I am not.

A Well, if you are not let me explain something to you that the American Hemisphere Life was a company going to be licensed in the state of Virginia, licensed to do business only in the state of Virginia, and if you would bother to check the records I am sure you will find that the charter would only permit them to do business in the state of Virginia until such time as their capital and surplus would permit them to get a license in other states, so the west--, the American Hemisphere Life could not possibly write the Teamster business as you are talking about.

Q Mr. Dorfman, you have been here every day of this trial, haven't you?

A Yes, I have.

Q You have listened to the testimony, isn't that correct?

A I am sure I have.

Q As a matter of fact, the defendants are the only witnesses who are not under the Rule. You have listened to the testimony but Mr. Partin and the others cannot.

MR. SILETS: Objection, Your Honor.

MR. SCHIFFER: Objection.

THE COURT: Sustain the objection. Disregard that comment.

MR. HAGGERTY: Ask for an instruction to the jury, Your Honor.

End 7

7A Sol.

THE COURT: Yes, disregard that remark.

MR. SILETS: Now, your Honor, this is about the fourth time in the space of ten minutes that Mr. Neal has injected matters which are prejudicial and which are inappropriate.

May I call upon the Court to at least caution him to act within the bounds of his duty as a representative of the government?

THE COURT: Let's proceed, gentlemen.

BY MR. NEAL:

Q You have been in court every day and heard the testimony.

MR. BERKE: He said that two or three times.

MR. SCHIFFER: Objected to.

MR. BERKE: Everybody knows that.

THE COURT: Overrule the objection to that.

MR. NEAL: Pardon me?

THE COURT: Overrule the objection.

MR. SCHIFFER: Your Honor, may we have the jury then instructed that the law is that the defendants must be here, they have no choice in the matter, they must be here in the court and before this Court and jury every day that this court is in session in this case. It isn't as though they had an alternative where they could stay home. May we not have that instruction, your Honor?

THE COURT: Well, let's proceed, gentlemen.

BY MR. NEAL:

Q I didn't get your answer.

A Would you repeat your question?

Q Well, you have been in court every day and listened to all of the testimony?

A Yes, I have.

Q You have listened to the testimony of Miss Hazel Fulton that you read a list of jurors to her?

A I heard that testimony.

Q And you deny that that is true?

A Absolutely not true.

MR. BERKE: Just a minute, if your Honor please.

Q You heard the testimony of Mr. Partin?

A Yes, I heard Mr. Partin.

Q And, of course, he's not telling the truth, is that your testimony?

A Absolutely right, he is not telling the truth.

Q Neither one of them are telling the truth?

A Absolutely right, they are not.

Q Mister--you don't know whether Mr. Tweel is telling the truth or not when he said you had a jury list and gave him in the courthouse or you may have?

A I said I had no recollection of that, Mr. Neal.

Q Now, I believe you said when you were in Nashville on your first trip you came in some time late at night

7A - 3

Dorfman - Cross

on October the 21st, is that correct?

A That is correct.

End Tk 7A
Tk 8 fls.

Q I think you testified that the next day Mr. Partin came up and introduced himself?

A That is what I said.

Q Introduced himself to you?

A Introduced himself.

Q Pardon me?

A He walked up and introduced himself to me.

Q The first time you had met him?

A No, sir, I met Mr. Partin one time before, I think, and I am just reaching back into my memory now, I think I met him one time in Florida as it pertained to his bond. But I'm not sure.

Q That was before this, wasn't it?

A It was in June or July of 1962.

Q Are you in the bonding business, your companies?

A We are now, yes.

Q Were you then?

A In 1962, yes, sir.

Q Were you in business making bonds for people?

A Yes.

Q What company does that?

A United Bonding.

Q United Bonding?

A Yes.

Q Was that the one who made the bond in that case?

A In that case I think the bond was originally written through an outfit out of New York and re-insured with United Bonding or United Bonding was the guarantor. I am not sure of that.

Q Now, Mr. Dorfman, I believe you said that the Defendant Hoffa called you on October 20th, is that correct?

A October 20th on a Saturday evening, that's correct.

Q Did he call you later than that any other time?

A Yes, he called me Sunday morning.

Q Sunday morning at approximately 9:33 a.m., Eastern Standard Time?

A I don't know what the exact time is, but if you have it there you can show it to me.

Q Or 9:33 a.m., Central Daylight Time? By the way, Chicago was on daylight time in October, October 21 of 1962, wasn't it?

A Yes, sir.

Q Changed the latter part of the month or something like that?

A I guess so.

Q Well, was it in the morning of October 21st that he called you?

A Yes, he did.

Q About, would you say about nine something your

time?

A I don't know what the exact time was, Mr. Neal.

Q Well, does that sound about right?

A I don't know what the exact time was.

Q Was it in the morning?

A Yes, it was.

Q In the morning?

A Yes.

Q October 21st?

A October 21st.

Q That would be Sunday morning. Right?

A That's correct.

Q He called you in the morning?

A That's correct.

Q What did you do then? Strike that. Do you know where he was calling from?

A Do I know where he was calling from?

Q Yes.

A No, no.

Q Did he tell you where he was calling from?

A I don't believe he did. He may have.

Q Didn't he tell you he was on his way to Nashville, Tennessee?

A Oh, yes. Sure.

Q By plane?

A Yes.

Q He obviously stopped somewhere between Detroit and Nashville then?

A You say obviously. I wouldn't know that, sir. Obviously.

Q Well, he said he was on his way to Nashville, Tennessee, and he was somewhere at a telephone?

A Yes.

Q Did he say he was calling from Erlanger, Kentucky?

A I don't remember him saying that to me.

Q You don't remember that?

A No.

Q Okay. He called you at your residence in Deerfield, Illinois, didn't he?

A That's right.

Q Now, approximately, approximately an hour after you received the call from the Defendant Hoffa you called Nicholas Tweel, didn't you?

A That's correct.

Q And you didn't have his unlisted number, did you?

A I don't remember what number I had.

Q Well, did you have his unlisted number? You have done a lot of business with him and you were engaged in a lot of various business ventures, did you ever have his unlisted number?

A I may have or may not have.

Q You don't recall?

A No.

Q Isn't it a fact you called him, didn't you have his number and you put in an emergency call and you said it was an emergency?

A Yes, I remember putting in an emergency call.

Q This was the call that you put in as an emergency call, wasn't it?

A Yes. His line was busy, and busy, and busy, and finally I told the operator, listen, operator, this is an emergency call. I would like to reach the party.

Q Oh, you do remember it now?

A Yes.

Q Well, was this the reason for putting in the emergency call?

A No, the reason I put in the emergency call was to tell Mr. Tweel that I would not meet him in New York. That I was leaving for Nashville, Tennessee, and if he wanted to me.

Q Excuse me --

A (Interposing) If he wanted to meet me, he could meet me in Nashville, Tennessee.

Q So when you called him at about 10:25 that would be about right, in the morning?

A Well, the record shows that.
Q You had made plans to go to Nashville?
A That's correct.
Q You had your plans all set?
A No, not quite at that time. Exactly what hour I was going to leave, no.
Q But you had your plans set to go?
A Yes, I knew I had to go.
Q Well, you had your plans set to go and you were calling him telling him you had plans to go to Nashville?
A That's correct.
Q I see. And you put in an emergency call for him shortly after Mr. Hoffa called you?
A Well, you are putting a lot of emphasis on the emergency call, Mr. Neal.
Q Well, all right. You called for him?
A It wasn't the intent of the emergency call that you think it was. It is how I got through to his house.
Q Isn't it a fact you didn't have his unlisted number and you called and told the operator it was an emergency and you got his unlisted number?
A Well, if that is a fact, you know it better than I do.
Q Pardon me?
A I say, well, if it is a fact, you know better than

I do.

Q But you are on the witness stand.

A I can't attest to that fact. I don't know whether I had his number or didn't have his number.

Q I believe we have an exhibit in the record which shows an emergency call from you to Mr. Tweel, have you reviewed that record? It has been passed around.

A I may have looked at it. I don't recall.

Q Okay. Now, then, sir, when did you leave -- you had your plans, you called Mr. Tweel, now when did you leave Chicago for Nashville?

A Sometime the evening of the 21st.

Q Sometime the evening of the 21st?

A Yes, sir.

Q Approximately what time, sir?

A I don't recall what time now what time. I know I didn't arrive in Nashville until late that evening.

Q You don't know what time you left?

A No, I don't know exactly what time I left.

Q How did you come?

A By charter.

Q How did you go to Nashville?

A I chartered a flight out of O'Hare Field, I believe it was Executive Airlines as I recall.

Q How did you happen to charter a flight?

A I don't understand your question.
Q Well, I mean did you not want to go commercial?
A If I recall I don't think I could get on commercial that day.
Q Well, there was a plane leaving at 12:15 p.m., arriving in Nashville at 1:15 p.m.?
A You are talking about in the afternoon?
Q Yes, sir.
A Mr. Neal, if I recall that day, I had to go down to my office and get all these files together for Mr. Hoffa.
Q That there was one departing Chicago at 6:20 p.m. and arriving in Nashville at 8:00 p.m.?
A Apparently I couldn't get on it.
Q You say apparently, did you try or not?
A I am sure I must have tried to get on a commercial flight.
Q You said you must have tried, do you remember trying?
A I'm sure that I must have tried, Mr. Neal. I don't exactly go out and spend money to charter flights because got nothing else to do with my money.
Q You say you might have tried, but you don't remember trying?
A Well, I'm sure I must have tried and that was the

only reason --

MR. SILETS: (Interposing) Your Honor, he has already answered that four times.

MR. NEAL: All right. All right.

BY MR. NEAL:

Q Now, sir, you called Mr. Tweel at ten something and told him your plans to go to Nashville and you say you must have tried, you are sure you must have tried to get on the airlines planes available; isn't it a fact, sir, that at 7:31 p.m., Nashville time, you received a call from Tweel who had arrived in Nashville? Still on October 21st, now?

MR. SILETS: Is that question indicating Mr. Dorfman arrived in Nashville at 7:31?

MR. NEAL: I think I said Mr. Tweel. If I didn't did you receive a call on October 21st?

BY MR. NEAL:

Q You had already -- Defendant Hoffa had called you at nine something, you had called Tweel at ten something. Told him you had plans to be in Nashville, wanted him to meet you there according to your statement. Isn't it true that that afternoon, that evening, you around seven something you received a call at your home in Chicago or Deerfield, Illinois, from Tweel who had arrived in Nashville?

A I don't recall talking to Mr. Tweel at that time.

Q You don't recall talking to Mr. Tweel at that time?

A No, I don't. I may have, but I don't recall it.

Q Why would he be calling you, sir, at that time?

A Apparently to find out--

MR. SILETS: (Interposing) Objection, Your Honor, calls for conclusion what Mr. Tweel had in his mind.

THE COURT: Sustained.

BY MR. NEAL:

Q You remember receiving a call from Tweel who had arrived in Nashville and was calling you at 7-something p.m. Central Standard time, from Nashville to your home in Dearfield, Illinois?

A I may have gotten the call.

Q You may have, you don't remember it?

A I don't recall it off-hand but I may have gotten it.

Q All right. Now, do you remember after you may have gotten that call, do you remember calling Wheeling, Illinois? Or do you remember calling from Wheeling, Illinois to the Andrew Jackson Hotel?

A Wheeling is near where I lived.

Q Pardon me?

A I live out near Wheeling, Illinois.

Q Do you remember calling Wheeling, Illinois on

your credit card to the Andrew Jackson Hotel at 8:39 p. m., 7:39 p. m., Central Standard Time after you received a call from Tweel in Nashville?

A I assume I must have been on my way to the airport and I was informing Mr. Hoffa that I was bringing the records.

Q I see, you were calling from Wheeling, Illinois which is close to your home?

A That's correct.

Q Calling the Andrew Jackson speaking for three minutes and thirteen seconds and you assume you were on your way to the airport telling Mr. Hoffa that you were on your way. Is that correct?

A I would imagine that is what it would be.

Q Do you remember that was eight minutes after you had received the call from Tweel? Do you remember then calling from Wheeling at 7:43 p. m., this is now--, this is 8:43 your time, 7:43 p. m. Nashville time, exactly four minutes after you called the Andrew Jackson Hotel then you were calling talking to Bufalino at the Andrew Jackson? And speaking for two minutes and four seconds.

A Show me the record. If I made the call I will be happy to testify to it.

Q Well, did you make the call?

A Show me the record, I will be happy to attest to it.

Q Well, can you tell me without looking at the records?

A No, I can't.

Q All right, it is your testimony you don't remember making such a call?

A I don't remember making it.

Q Pardon me?

A I don't recall it.

MR. SCHIFFER: Pardon me, Your Honor, I would like to offer an objection and move for a mistrial now I find that certain of the records which we were looking for, Mr. Durkin has now pulled out of his pocket. They look like telephone records.

MR. DURKIN: Your Honor, they were turned over to the defense. They have copied these prior to the trial.

MR. SCHIFFER: I would like to see the copies which anybody in the defense has of these records which he is pointing to now. I never saw them but it is mighty strange thing to come into a federal court in the middle of a hearing and yank exhibits out of your pocket as a government attorney.

MR. SILETS: Your Honor, these are the records that I've been asking for for two weeks now.

THE COURT: Overrule the objection. Are these or not records that were made available to the defense?

MR. NEAL: They are, Your Honor.

THE COURT: All right.

MR. NEAL: They copied them.

MR. SCHIFFER: May we have the numbers of them, Your Honor, so we can check very quickly? Have they been marked in evidence before Your Honor?

THE COURT: The Court has no knowledge of these matters.

MR. NEAL: I ask they be marked.

MR. SCHIFFER: May I inquire, Your Honor, whether they have been received yet? May I have a look. It may save a lot of time.

THE COURT: I do not know.

MR. SILETS: Your Honor, how can Mr. Dorfman, showing Mr. Dorfman these documents prove anything? They aren't his records. Yesterday Mr. Hooker needed a memorandum to explain what they were. I mean what purpose is now being served by having these marked and introduced? He is not competent to testify about them?

MR. NEAL: If he is not, he can say he is not competent to testify about them.

MR. SCHIFFER: Your Honor, at this time because of the suspicious circumstances and the surreptitiousness and the manner in which Mr. Durkin came into this courtroom and took exhibits out of his pocket so far as I'm concerned I know we never saw these records, Your Honor. We never had

copies of them. And I say they should be expunged from the record and I say that further cross examination of this witness should be curtailed. I have never seen a more blatant affront to the integrity and dignity of the Court and jury sitting in the middle of a case. Now, we believe that the records which have been submitted by the prosecution for our perusal the other day about ten or twelve thousand, that is how many there were, these records were not among them, Your Honor, and this is done openly in front of the Court. How do we defend against such a case here? They hide materials here. Now they first mark them in evidence.

MR. HOOKER: We object to that speech and ask Your Honor to instruct the jury not to consider it.

End 8A

Tk 9 fol.

THE COURT: Overrule Mr. Schiffer's objection. Sustain Mr. Hooker's objection and direct the jury to disregard.

MR. SILETS: I am asking if the jury can be excused so that we can argue this point.

THE COURT: Let's proceed.

MR. NEAL: I think it's improper to cut up my cross examination like this. We didn't object to any one single question asked this witness on direct.

THE COURT: Let's proceed.

MR. SILETS: If there was anything objectionable to it Mr. Neal would have objected and I think the Court should instruct the jury to disregard that kind of remark.

THE COURT: Disregard that remark.

MR. SILETS: Your Honor, this is now the fifth time. I am going to move for a mistrial on the basis of these prejudicial remarks of Mr. Neal.

THE COURT: Overrule that motion.

BY MR. NEAL:

Q All right. Mr. Dorfman, you have Government's Exhibit No. 176 there. Do you see it bears your credit card?

A Yes, it does.

Q And do you see that it--do you see that a call from Wheeling, Illinois, charged to your credit card to Busalino at the Andrew Jackson Hotel in Nashville, Tennessee?

A This doesn't say Bufalino.

Q I said Busalino.

A Yes, Busalino.

Q Busalino at the Andrew Jackson Hotel?

A That I don't know. What does it show?

Q ALpine 5-2121. There is evidence in this case that's the Andrew Jackson.

MR. SILETS: Your Honor, this is the very thing I am trying to say to the Court, he has no way of knowing. We need an expert from the phone company. Mr. Hooker needs a memorandum attached to it to understand it and he is asking an insurance man to interpret an IBM card. How ridiculous can you get?

THE COURT: Overrule the objection.

BY MR. NEAL:

Q Does that refresh your recollection to the call, Mr. Dorfman?

A No, it doesn't refresh my recollection.

Q Pardon me?

A Doesn't refresh my recollection. I must have called--

Q (Interposing) You don't--

MR. HAGGERTY: (Interposing) Let him answer the question.

BY MR. NEAL:

Q Have you finished?

A It does not refresh my recollection but I must have made the call if this is supposed to be the document showing I did make it.

Q What was the call about?

MR. SILETS: Can the defense at least look at this document?

THE COURT: Yes.

BY MR. NEAL:

Q What was the call about, Mr. Dorfman?

A Well, I am sure if it was on that same date, Mr. Neal, it was pertaining to the files we had to have to prepare for the Hoffa trial.

Q Well, do you now remember the conversation?

A I do not.

Q You don't remember the conversation at all?

A No, I do not.

Q But you have testified on direct that you remember every conversation you had with Mr. Tweel?

A I never said I remembered every conversation I had with Mr. Tweel.

Q Well, you remembered certain definite ones.

A Well, I listened to this for five weeks in this courtroom.

MR. SCHIFFER: This is purely argumentative.

THE COURT: Overrule the objection.

BY MR. NEAL:

Q You remember certain ones from the Union Station, certain ones up the street on the night of November 27th very distinctly?

A Well, don't you think I would, Mr. Neal, since I listened to it for five weeks in court?

Q The testimony you listened to was not like the ones which you have given from the stand,

MR. SCHIFFER: Objected to. I move for a mistrial.

MR. BROWN: Improper.

MR. SCHIFFER: That's so highly improper I think the Court must protect these defendants, the lawyers can't do it any more.

THE COURT: Sustain the objection. Disregard that remark. Overrule the motion for a mistrial.

BY MR. NEAL:

Q All right, sir. I will go now to October the 21st. After you received the call from Hoffa and you called Tweel when Tweel went to Nashville and called you again and then you went out to Wheeling and called the Andrew Jackson Hotel and four minutes later you called Mr. Busalino at the Andrew Jackson Hotel, didn't you thereafter call from your residence to the Business Air Travel and Airplane Charter

Service at Chicago, Illinois?

A I could have.

Q You could have? Pardon me?

A I could if the record shows it.

Q Do you remember doing that?

A Pardon me?

Q Do you remember doing that?

A I remember calling them, sure I do.

Q Do you remember calling them at that time? Now, that was approximately 8:52 P.M., this is some 12 hours after you had planned to go to Nashville and called Tweel and asked him and told him your plans to go to Nashville?

A What is your question now, Mr. Neal?

Q Well, did you call the Airlines?

A I am sure I called the Airlines.

Q At approximately 8:52 P.M.?

A I have no idea what time it was.

Q Do you remember this call I am talking about now?

A I remember making the call, how else would I have gotten the Airline?

A Do you remember what time you called them?

A No, I do not.

Q Are you going--well, is it your testimony that you did not call at 8:52 P.M. Business Air Travel?

MR. SILETS: Your Honor, he answered he doesn't

know what time he called.

THE COURT: Go ahead.

MR. NEAL: All I want is an answer.

THE COURT: Overruled.

BY MR. NEAL:

Q Is it your recollection you did not call at that time, 8:52 P.M. on October the 21st, 1962?

A I said I don't recall that time. If I made the call at this time I am sure I made it.

Q Then you are not denying that you made it at that time?

A I am not denying it.

Q Okay. Now, then, sir, four minutes later did you, for the first time, call Executive Airlines, that's 8:56 P.M. Chicago time, from your residence in Deerfield, Illinois, to Executive Airlines at O'Hare International Airport, Chicago?

A Mr. Neal, I don't think your facts are right.

Q Very well.

A I think there were some calls that were made earlier in the day or the early part of the evening from my office.

Q All right. Do you know a call at Executive-- I mean the telephone number at Executive Airlines?

A No, I do not.

MR. SILETS: Your Honor, does Mr. Neal have some evidence that it was this man who made the call? Aren't these local toll calls that anybody could have made from a telephone number?

MR. NEAL: At his residence?

THE COURT: Well, overrule the objection. Let's proceed.

BY MR. NEAL:

Q All right. Now, I am going to ask you, Mr. Dorfman, and I want an answer to this at this time.

MR. BRANSTETTER: May it please the Court, I assume that the witness will answer without counsel telling him that he wants the answer at this time.

THE COURT: Yes, proceed.

MR. BRANSTETTER: I think the Court held us rather rigidly to some of these questions and we respectfully ask the Court to hold the counsel for the government in the same line.

THE COURT: Just state your question, Mr. Neal.

MR. SCHIFFER: I'd like the record to indicate these records which are introduced by the government, making reference to--they are still coming out of the pocket of Mr. Durkin.

MR. NEAL: I want this marked. I want this marked for identification, please.

THE COURT: 176 previously was just admitted for identification only. Exhibit No. 177.

MR. DALE: Yes, your Honor.

(The telephone company record referred to above was marked Government's Exhibit No. 177 for identification only.)

MR. DURKIN: I also make the statement regarding this very exhibit, I personally observed Mr. Silets examine it prior to trial. I personally saw to it.

MR. SCHIFFER: Your Honor, I'd rather have that statement made under oath rather than stated from the floor. I don't take their word for anything, your Honor. I have indicated that to you before and I think it is highly improper for him to step up now, he's not an attorney of record here, and he suddenly pops up.

End Tk 9
Tk 9A fls

THE COURT: Mr. Schiffer. Very well, let's have you step out, ladies and gentlemen of the jury.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

THE COURT: Now, the jury is out, Mr. Schiffer. If you will take the witness stand and swear that you have never received these records then we will put the other--

MR. SCHIFFER: (Interposing) I can't say I have never seen these records. I don't know what I have received or what I haven't.

THE COURT: You made the statement in the presence of the jury that you haven't. Now, if you want to get on the witness stand and swear that you haven't I will hear you.

MR. SCHIFFER: Let me say to Your Honor I haven't seen any of these records he is referring to.

THE COURT: Will you swear? Do you want to get on the witness stand and swear something then?

MR. SCHIFFER: For this reason I think it's improper on his part to get up and make a representation of that nature before the jury because that's evidentuary, Your Honor, he is giving evidence.

If it was Mr. Neal who made the statement I could understand it. He and Mr. Hooker are trying this case, however, we have a lawyer come out of left field, so to speak,

who has no standing in this case, he suddenly stands up and starts giving evidence to a court.

THE COURT: Just answer my question. Do you wish to take the stand and swear you have never seen these records?

MR. SCHIFFER: I haven't seen any telephone records, Your Honor. I don't know what he is referring to when I see a lawyer for the government come into court and put his hand in his pocket and start pulling out surreptitiously all kinds of records I have the right to question that to protect my defendant.

THE COURT: All right. Let's have the jury return.

MR. NEAL: Now, I just point out, Your Honor, he said he didn't believe him. Now he questions a lawyer's integrity.

MR. SCHIFFER: I--

MR. NEAL: (Interposing) Just a moment, Mr. Schiffer, it's my turn.

MR. SCHIFFER: Take your turn.

MR. NEAL: He questions a lawyer's integrity and said he didn't believe those had ever been turned over. Now Mr. Durkin is prepared to take the stand and testify under oath, now, Mr. Silets and Mr. Schiffer now says he never has never seen any records. That's the thing that we have had

to fight.

MR. SCHIFFER: What I am saying here for the Court is that we, so that we all understand the situation, Your Honor, I have not had the job here at all of looking at telephone records. What I am saying to Your Honor is this, there have been complaints made to YourHonor, it's a matter of record that all these records which they refer to, these telephone records I am referring to, that half of the lawyers say they never saw them, some say they saw some of them as the things we have gone into the record into evidence, Your Honor, these telephone records, they say some of them are new to them.

Now, all I'm saying to Your Honor is this, I am suggesting that the Court take some kind of action here to conduct this case the way the defendants are entitled to have it conducted, not at the persistence of the prosecution to violate every basic right of the defendants in this courtroom.

What I am saying, Your Honor, is very simple, I don't like, and I want the record to reflect that, Mr. Durkin came in here and surreptitiously pulled records out of his pocket. Now, let me say if those records had been shown to us he didn't have to come stealing into the courtroom like some thief of some kind and go to his pocket and hand these things up to Mr. Neal.

Now, these things don't go on in the federal courts

THE COURT: All right.

MR. SCHIFFER: What do you want us to do, Judge?

THE COURT: Let's have the jury return.

MR. SILETS: Your Honor, I have a motion I want to make before the jury returns.

End 9A

Tk 10 fol.

MR. SILETS: Now, there are several things that have occurred in the presence of the jury and I asked the Court to excuse the jury. Now the Court has done so. I am going to move specifically now for a mistrial on the grounds that Mr. Neal's asking a question compelling Mr. Dorfman to answer concerning the revocation of his license by another administrative agency and which was adjudicated by another agency was highly prejudicial to this defendant. And, your Honor, this reflects upon the character and reputation of the defendant and it is highly improper to go into that area.

Now, I made my objection timely. I moved for a mistrial at that point. It was a collateral matter to the issues involved. I could not argue that in front of the jury because it would only highlight the basis for my motion. But, your Honor, it is clear and all the authorities, under all the authorities he has gone into an area which is trespass to his rights as a defendant in this case.

He wasn't convicted of any crime. Now, to my knowledge that is the only basis for them going into any action by any administrative body that he was convicted of a crime. Now here they have gone in with knowledge of the revocation of his license to attack his credibility and impeach him as a defendant and they know that because Mr. Neal knew the question and the answer at the time he made it and he persisted over constant objection by me and being sustained

by the Court.

Your Honor, this is under all of the authorities highly prejudicial and is error and I suggest to the Court that the Court declare a mistrial as to the Defendant Dorfman.

THE COURT: All right.

MR. SCHIFFER: May that go as to all defendants, your Honor?

MR. BROWN: My defendant, also, if the Court please.

THE COURT: Overrule the motion.

MR. BRANSTETTER: May it please the Court, the Defendant Campbell moves for a mistrial on the basis of improper cross examination that has been had of a codefendant and particularly that improper matters have been sought to be brought out as relates to the codefendant. And as a result thereof he could not under any theory receive a fair and impartial trial by this jury. I also, if the Court fails to grant a mistrial at this point, I would secondarily request for a severance as to the Defendant Campbell.

And also renew my motion for judgment of acquittal of Defendant Campbell.

THE COURT: Allow those motions to be overruled.

MR. ALEXANDER: I join in those motions, may it please your Honor. The matters have been brought out which are very prejudicial to Mr. Tweel and I respectively move for

a mistrial and/or a severance.

THE COURT: Overruled.

MR. HAGGERTY: Same motion on behalf of the Defendant Hoffa.

MR. SCHIFFER: Defendant Parks joins in the same motion.

THE COURT: All right, allow all defendants to join in the same motion. Overrule the motions. All right, gentlemen, let's take a 10-minute recess at this time.

(Thereupon, at 10:30 o'clock, a.m., court was in recess.)

End 10
11 fls

(Thereupon, the jury of 12 and 4 alternates returned into open court and the following further proceedings were had and evidence introduced, to-wit:)

BY MR. NEAL:

Q Mister--

THE COURT: (Interposing) Just a moment.

MR. NEAL: I beg your pardon.

THE COURT: Ladies and gentlemen of the jury, you will disregard any questions or any answers of the witness relating to any insurance licenses or insurance licenses in Michigan or any matters pertaining to any revocation of any insurance licenses in Michigan.

MR. SILETS: Your Honor, may it please the Court.

THE COURT: Yes, sir.

MR. SILETS: Based on the Court's instructions at this time I think the Court may have highlighted this and I again renew my motion for a mistrial.

THE COURT: Overrule that motion.

MR. SCHIFFER: Can that be for all defendants, your Honor?

THE COURT: Yes.

BY MR. NEAL:

Q Mr. Dorfman, to bring you up, this is October the 21st, 1962, the day before the Hoffa trial starts in Nashville. You were called by the Defendant Hoffa in the

morning around 9:30, approximately an hour thereafter you called the Defendant Tweel.

MR. SILETS: Your Honor, are we going to repeat, is Mr. Neal going to regurgitate all this? Can't he just ask the question?

THE COURT: Just ask your question, Mr. Neal.

MR. NEAL: Very well.

BY MR. NEAL:

Q I asked you, I am not sure you had answered, if you had I would ask your indulgence because I don't remember what the answer was. I had asked you if it was not 8:56 P.M. Central Daylight Time, on October 21, 1962, almost 12 hours after you had said you had called Tweel and told him of your plans to come to Nashville that you at that time got in touch with the Executive Airlines, a charter service, for a flight to Nashville?

A Mr. Neal, if the records show that that is what happened.

Q Twelve hours after you called Mr. Tweel?

MR. HAGGERTY: I object to that as repetition.

THE COURT: Sustained.

BY MR. NEAL:

Q Then you say you did, is that correct?

A If that is what the record shows I am sure I did, Mr. Neal.

Q I don't want the records, I want to ask you if you remember. If you don't remember just say you don't remember.

MR. SILETS: Sir, how many times can we go over the same problem?

THE COURT: Overrule the objection.

BY MR. NEAL:

Q Do you remember calling the Executive Airlines at 8:56 P.M. at night on October the 21st?

A Mr. Neal, if I called Executive Airlines at that hour that was the hour I called.

nd Tk 11
Tk 11A fls.

Q Do you remember?

A No, I don't.

Q All right. That's fine. Do you remember 8:58 p. m., two minutes later you called from your residence to the James R. Hoffa residence in Detroit, Michigan, and talked two minutes? Now, this is two minutes after the call to Executive Airlines, it's six minutes after your call to Business Air Travel, another charter service, it's fifteen minutes after your call to Busalino at the Andrew Jackson and it's nineteen minutes after your call, your first call at the Andrew Jackson, it's one hour and twenty minutes after your call by Tweel.

MR. SILETS: Your Honor, this is--

THE COURT: (Interposing) Sustain the objection.

MR. SILETS: Your Honor, this is now by actual count the seventh time Mr. Neal has gone through this kind of procedure, the seventh time.

THE COURT: Just state your question, Mr. Neal.

BY MR. NEAL:

Q Do you remember, do you remember at 8:58 p. m. on October the 21st making a call to the James R. Hoffa residence in Detroit, Michigan, from your residence in Dearfield, Illinois?

A Mr. Neal, I think you have refreshed my recollection on something.

Q All right.

A I think I did.

Q I am asking you this question now. Can you refresh your recollection on this question?

A I think that the call to Mr. Hoffa's residence was to inquire as to whether or not the plane was going to go down to Nashville, Tennessee.

Q Yes.

A And if it was then I would go on that plane and not on the charter flight.

Q I see. This is 8:58 p. m.?

A I don't know what time it was.

Q This is two minutes after you called Charter Service, does that sound about right?

A It could very possibly be.

Q All right. If that refreshes your recollection that is what we want, we want the facts.

All right. Then at 8:56 p. m. you called Executive Airlines to ask for Charter Service, two minutes later at 8:58--

MR. SILETS: (Interposing) Your Honor, again.

THE COURT: Sustain the objection.

MR. NEAL: All right.

BY MR. NEAL:

Q Then two minutes later you called the James Hoffa

residence at--

MR. SCHIFFER: (Interposing) Objected to.

THE COURT: Sustain the objection. Mr. Neal, just state your question, sir.

MR. NEAL: All right. I beg your pardon.

BY MR. NEAL:

Q All right. At 9:04 p. m. did you call from your residence to the Don McLott residence in Detroit, Michigan?

A Apparently that bears what I just said, Mr. Neal, if I made that call I am sure I did, I was to inquire whether or not Tom McLott was going to fly down to Nashville and I would fly down with him.

Q This is 9:04 p. m. October the 21st?

A Yes. I think I did make that.

Q Did you make that call to the Don McLott residence in Detroit, Michigan?

A I think I did.

Q Did you call him to determine if he was flying downto Nashville, Tennessee?

A I believe that was the purpose of the call.

Q And to see if you could get a ride with him?

A That is correct.

Q McLott is a Hoffa--, Defendant Hoffa's pilot?

A If I recall, Mr. McLott was not at home at that time.

Q I think your memory has proven it.

MR. SILETS: Objection, Your Honor.

THE COURT: Sustain that.

BY MR. NEAL:

Q Now, Mr. McLott is the Defendant Hoffa's pilot, is that correct?

A Well, he flies for the International Union.

Q All right. I mean he flies for the International Union and flies the Defendant Hoffa around on occasions.

MR. SILETS: Objection, Your Honor.

THE COURT: Sustain the objection.

BY MR. NEAL:

Q All right. You called the McLott residence now. All right. Now, at 9:17 p. m., 13 minutes later, did you call to Port Sanilac, Michigan? I beg your pardon, were you called from Port Sanilac, Michigan to your residence by Mr. Don McLott?

End 11A

Tk 12 fol

A I believe so.

Q Do you remember that?

A I think so.

Q And that was to tell you what?

A I believe Mr. McLott was up skiing at that time and he was--

Q (Interposing) And he was telling you he wasn't going to Nashville and you couldn't get a ride?

A I believe that was it.

Q All right. Four minutes later at 9:21 P.M., did you again call the Executive Airlines to O'Hare International Airport, Chicago, from your residence in Deerfield, Illinois?

A If the record shows I made the call, Mr. Neal, I am sure I made the call.

Q Well, do you remember making the call?

A No, I have no recollection of it.

Q You have no recollection of it?

A I don't.

Q You don't remember this call at all?

A If the record shows it, I will be happy to say I made the call.

Q But you have no recollection of it?

A No, I don't.

Q Is there any way I can refresh your recollection?

A Show me my bills.

MR. SILETS: Objection, your Honor.

THE COURT: Sustain the objection.

BY MR. NEAL:

Q Well, let me hand you Exhibit No.--Government's Exhibit No.--

MR. SILETS: (Interposing) I believe, your Honor, you sustained my objection?

THE COURT: I sustained the objection to the specific question that he asked.

MR. NEAL: Your Honor, he said if that is what the record shows, and I want to see if this record refreshes his recollection.

THE COURT: State your question.

BY MR. NEAL:

Q Do you know that to be a bill of your phone? Keep the page there? Do you recognize that as a bill of your phone?

A I recognize it as a bill. It doesn't show where--

Q (Interposing) Look at the Chicago, Illinois, numbers, LI 4--LI 6-4000.

A Pardon?

Q Do you see two calls charged to your phone there on October 24th, LI 6-4000? On the page I showed to you? I put little check marks by them there to help you.

A No, sir, I don't see that.

MR. NEAL: May I approach the witness, your Honor?

THE COURT: Yes.

THE CLERK: Exhibit No. 177.

(The telephone record referred to above was marked for identification as Exhibit No. 177.0

BY MR. NEAL:

Q Do you see two LI 6-4000s there and give you the time over there?

A Yes, sir.

Q Pardon me?

A Yes, I do.

Q Do you know what LI 6-4000 is in Chicago?

A No, I don't.

Q Would you accept my word that that the Executive Airlines?

MR. SILETS: Your Honor, that has to be a lie because LI 6-4000 is not Executive Airlines. It is LU 6-4000.

MR. NEAL: LU 6-4000?

MR. SILETS: If that record shows LI 6-4000, it is probably some other number.

THE COURT: Well, sustain the objection. The witness can say so if he knows.

BY MR. NEAL:

Q As a matter of fact, that is LU 6-4000. It is my bad eyes. That is LU 6-4000, isn't it?

A Yes, it looks like it.

Q Now, according--do you take your counsel's word that that is the phone number for Executive Airlines?

A Yes.

Q All right, now, would you look at--you are familiar with the military time, aren't you, sir?

A Used to be.

Q All right. Would you read us the time off of this, off of there of the two calls?

A One is at 8:56. The other is 9:21.

Q 8:56 and 9:21 P.M.?

A It makes no reference to the A.M. or P.M.

Q Well, military time, it says 21, one of them is 2100 something, one of them is 2000 something, that is P.M., isn't it?

A That's right.

Q So one is at 8:56 P.M. and one is at 9:21, October 21st, two calls to Executive Airlines?

A That's right. That's correct.

Q All right. 9:21 P.M. is the last one. All right. Then at 9:25 P.M., sir, did you call, make a call from your residence to the Andrew Jackson Hotel again?

A If the record shows it, sir, I made it.

Q Do you remember the call?

A I think I do.

Q And you talked for approximately six minutes?

A I don't know how long I talked.

Q Pardon me?

A I don't know how long I talked.

Q Now, sir, isn't it a fact then I believe you so testified that all these calls were made to these various airlines, to the Hoffa residence, to Mr. McLott, the pilot, after Nicholas Tweel called you in Nashville, Tennessee, and I will ask you further if it isn't a fact that no plan to go to Nashville--

MR. SILETS: (Interposing) We object, your Honor, that is not the fact. That is not the record.

THE COURT: Well, I will sustain the objection to the form of the question.

BY MR. NEAL:

Q Isn't it a fact, sir, that you had no plan to go to Nashville, Tennessee, until Nicholas Tweel called you and told you to come on down there? Then you started looking around the various airlines getting reservations?

MR. SILETS: We object, your Honor. Arguing with the witness. If he has a question, let him state the question. That is very easy.

THE COURT: State your question.

BY MR. NEAL:

Q That is my question. Isn't it a fact--

MR. SILETS: (Interposing) That is argumentative, your Honor, if this is the form of the question then that is objectionable.

THE COURT: Sustained.

BY MR. NEAL:

Q Now, sir, isn't it a fact that you left Chicago, Illinois, around 11 P.M. on October 21st?

A I have no idea what hour I left. I know it was late in the evening.

Q Well, who was the pilot? A Mr. Foster, wasn't it?

A That sounds like the gentleman's name.

Q William Foster?

A Sounds like the gentleman's name.

Q Didn't you arrive in Nashville at approximately 1 A.M.? That is after midnight on the morning of October 22?

A I don't know if it was that late, Mr. Neal.

Q You don't think it was that late?

A I don't think it was that late.

Q Well, what is the flying time by Mr. Foster's plane from Chicago to Nashville?

A I have no idea.

Q What were you charged for it? How much time were

charged for?

A Show me the bill and it should be right on there. I know you have it there.

Q Well, would you say, would you say that you left around 11 or after 11 on the 21st? Let's get that settled first.

A Mr. Neal, I don't recall what hour I left.

Q Well, certainly you called, you called from your home to the Andrew Jackson Hotel at 9:25 P.M., spoke for six minutes, so that would be past 9:30.

MR. SILETS: Your Honor, if Mr. Dorfman answered that he doesn't know, that is short and the long, that is the short and the long.

THE COURT: Sustain the objection.

BY MR. NEAL:

Q Could I refresh your recollection by saying you left some time after 11 P.M.?

MR. SILETS: Your Honor, that is arguing with the witness. He stated that he doesn't know. And if Mr. Neal has a precise document that says he left at a particular time let him show that to the witness. If he doesn't then everything else is argumentative.

MR. NEAL: I am not trying, I am not trying to be tricky with you, these documents don't state the time you left.

THE COURT: State your question.

BY MR. NEAL:

Q Does 11 P.M.--

MR. NEAL: Excuse me, your Honor.

THE COURT: State your next question.

BY MR. NEAL:

Q Does 11 P.M. or shortly thereafter sound about right to you?

A Mr. Neal, I don't recall the time.

Q Do you recall the flying time?

A No, I don't.

Tk 12
Tk 12A fls.

Q Well, would two and a half hours sound about right to you?

A Could be about right, I don't know.

Q Well, I ask that this be marked for identification.

THE CLERK: No. 178.

(Flight record referred to above was marked Exhibit No. 178 for identification only.)

MR. SILETS: Your Honor, may we see this document?

THE COURT: All right.

MR. NEAL: Before it is shownto the witness?

MR. SILETS: Yes, before it is shown to the witness. May it please the Court, this is a document I have never seen before. I had asked and I have been asking consistently for all travel records and as late as yesterday afternoon and last evening, Mr. Durkin and Mr. Neal told me they didn't have any travel records. I have even prepared a subpoena to serve on the government for the records that they have obtained and have in their files. Now it appears that now at this late hour we have a record.

THE COURT: Well, let's proceed to some other matter.

MR. NEAL: May it please the Court, I would like the record to show and I think Your Honor will remember yesterday I said we have no original records. We have

photostats. The originals are available at the airlines, I think Your Honor will remember that.

MR. SILETS: Is this a game? Is he playing on words?

THE COURT: Well, let's proceed to some other matter. I will reserve this at this time.

MR. NEAL: Very well, Your Honor.

BY MR. NEAL:

Q Would you say about two and a half hours is about right travel time, flight time, for the airplane that you were in?

A Could be, Mr. Neal.

Q Does that sound about right?

A I have no idea.

Q Now, sir, did you check in at the Andrew Jackson Hotel when you arrived this night of the 21st, whatever time you arrived?

End 12A A I don't recall, sir.

k 13 fol.

Q You don't recall whether you checked in or not?

A I don't recall whether I checked in or I slept with somebody else.

Q Isn't it a fact you slept in one of Mr. Hoffa's rooms?

A I don't recall that.

Q You don't recall that?

A No, sir, I do not.

Q Have you tried to get your hotel records to check?

MR. SILETS: We have tried to get them from the government, your Honor, and we still have to try to get them from the government.

THE COURT: Allow the witness to answer.

BY MR. NEAL:

Q To refresh your recollection, to tell you that there are no records of you checking into the Andrew Jackson Hotel --

MR. SILETS: (Interposing) Objection, your Honor, there is no competent evidence in the record that there are or are not.

THE COURT: Sustain the objection.

BY MR. NEAL:

Q Do you mean to tell us, sir, you don't remember whether you checked in the hotel that night or not?

A That's correct, Mr. Neal, I don't remember.

MR. SILETS: Mr. Neal is now arguing with the witness. He has answered the question the best he can.

THE COURT: Overrule the objection.

BY MR. NEAL:

Q I didn't get your answer.

A I don't remember.

Q You don't remember?

A No.

Q Do you remember where you slept?

A No, I do not.

Q All right, sir. When did you leave Nashville on this trip?

A I believe I testified I left Nashville around 1:00 o'clock the following afternoon, which would be Monday, the 22nd of October.

Q All right. And you spent the morning in court, did you not?

A Part of the morning.

Q Pardon me?

A Part of the morning.

Q Well, you spent the part from about 9:00 to 12:00 in court, didn't you?

A No, I don't think I stayed until 12:00 noon.

Q Well, what time did you leave court?

A That's correct, Mr. Neal, I don't remember.

MR. SILETS: Mr. Neal is now arguing with the witness. He has answered the question the best he can.

THE COURT: Overrule the objection.

BY MR. NEAL:

Q I didn't get your answer.

A I don't remember.

Q You don't remember?

A No.

Q Do you remember where you slept?

A No, I do not.

Q All right, sir. When did you leave Nashville on this trip?

A I believe I testified I left Nashville around 1:00 o'clock the following afternoon, which would be Monday, the 22nd of October.

Q All right. And you spent the morning in court, did you not?

A Part of the morning.

Q Pardon me?

A Part of the morning.

Q Well, you spent the part from about 9:00 to 12:00 in court, didn't you?

A No, I don't think I stayed until 12:00 noon.

Q Well, what time did you leave court?

A If I recall I left there around 11:00 or 11:30.

Q And where did you go then?

A Walked back to the Andrew Jackson Hotel.

Q Where did you go then?

A Sat in the lobby of the hotel and talked to Mr. Tweel.

Q All right. Where did you go then?

A Back to Chicago.

Q All right. You left court about 11:00 or 11:30, went back to your hotel, and you left Nashville at 1:00. You had to go back to the airport, didn't you?

A Oh, sure.

Q That's about a 30-minute trip from downtown Nashville, isn't it?

A I don't know.

Q Pardon me?

A I don't remember whether it was 30 minutes or 20 minutes.

Q All right. Anyone accompany you back to Chicago?

A Yes, sir.

Q Who?

A Mr. Charles O'Brien.

Q Does he have a nickname?

A A nickname?

Q Chuck, Chuck O'Brien?

A I think most Charles's are called Chuck.

Q All right. Who is Chuck O'Brien?

A Chuck O'Brien is a business agent for the Teamsters Union.

Q What Teamsters Union?

A Local 299.

Q In Detroit?

A Yes, sir.

Q Mr. Hoffa is president of that union, isn't he?

A Yes, he is.

End 13
13a fls
13a

Q Now, sir, when did you come back to Nashville during the Hoffa trial?

A Exact date I don't know.

Q The exact day. All right, approximately.

A I couldn't about to guess. If you have the records to show me I will be happy to attest to them.

Q Was it the month of October, the month of November, or what?

A I have no recollection, Mr. Neal, you'd have to refresh it.

Q Well, what was the time you said you made a phone call to Nicholas Tweel from the Union Station?

A It was in November, sir.

Q In November. November 27th. Would November 27th be about right?

A That's correct.
Q That's the date, is it?
A Yes, it is.
Q Do you remember the date?
A I have heard it mentioned in court enough times.
Q Pardon?
A I have heard it mentioned in court enough times.
Q You came down by Eastern Airlines on that trip, did you not?
A I believe Eastern Airlines is the only airlines going out of Chicago to Nashville.
Q I thought TWA did but that's not important.
A Well, I am sure it doesn't.
Q All right. You said you left. You came the 27th and left the 29th, didn't you?
A I don't recall what day I left.
Q Did you stay a couple of days?
A I may have.
Q Well, does that sound about right?
A Mr. Neal, if you have a document to show me, I will be happy to attest to it.
Q Well, that's the problem. Where did you stay?
A I am sure I stayed --
MR. SILETS: (Interposing) It's no problem.
A At the Andrew Jackson Hotel.

MR. SILETS: They have subpoenaed all of these records from the hotel.

MR. NEAL: Now, if Mr. Silets wants me to state there is no record of any registration at the hotel.

THE COURT: Overrule the objection.

MR. SILETS: Your Honor, it just seems to me I saw last night, after many weeks I was given three documents and I think one of them was the hotel record of the Andrew Jackson. If you ask Mr. Durkin, who is up --

THE COURT: (Interposing) State your next question.

MR. NEAL: We'll get to those.

BY MR. NEAL:

Q Where did you stay this trip?

A The Andrew Jackson Hotel.

Q Did you register?

A I don't recall.

Q You don't recall whether you registered or not?

A I don't remember.

Q If you didn't register, where did you stay?

A I would have either stayed with some attorney or I might have registered and stayed in my own room.

Q What attorney?

A Well, Mr. Bufalino, Mr. Schiffer, Mr. Kossman, any one of them that were around.

Q Mr. Schiffer, was he around there?

A Yes, he was.

Q Mr. Bufalino, was he there?

A Yes, he was there.

Q Well, how about Mr. Hoffa, did you ever stay in Mr. Hoffa's room?

A I never slept in Mr. Hoffa's room.

Q But you stayed with his, one of his attorneys if you didn't register?

A Sir, pardon?

Q You would stay with one of his attorneys if you didn't register?

A One of his attorneys or wherever there was a room available, there were plenty of rooms there.

Q All right, sir. Now, sir, you testified that you had a call on this trip where you placed a call to Mr. Nicholas Tweel, is that correct?

A On which trip?

Q This trip, November 27th?

A Yes, sir.

Q This call was from the Union Station?

A That is correct.

Q You said you didn't recollect placing any call from O'Brien's Beefery?

A I have no recollection of placing a call from

O'Brien's Beefery.

Q Then you are not denying that?

A I might have placed one.

Q You have no recollection then?

A That's correct.

Q You do have a recollection that you did call, that you were walking from O'Brien's Beefery to your hotel?

A That's right.

Q And you walked by Union Station?

A That is correct.

Q And you went in there to make a telephone call?

A That is correct.

Q And that booth was in the open, wasn't it?

A Right out front.

Q Pardon?

A Right in front.

Q In the open?

A Yes, sir.

Q In the open?

A Yes, sir.

MR. NEAL: Okay. Where are those pictures that were shown of the Andrew Jackson that were introduced?

MR. DALE: That's the station.

MR. NEAL: Yes.

BY MR. NEAL:

Q You said that you talked with Mr. Tweel about some business, is that correct?

A That is correct.

Q It was a stand-up phone booth, wasn't it?

A Yes, if I recall.

Q Stand-up in the open?

A Yes.

Q Yet you called him and talked to him about business?

A No, I did not talk to him from that phone booth because I couldn't hear him and he couldn't hear me.

Q Well, you were here yesterday. You did talk to him, though, or attempt to talk to him?

A Yes, I attempted to talk to him.

Q He was on the other end of the line?

A I believe he was.

Q Yes. Do you remember Mr. Tweel testifying that he was not on the other end of the line?

A No, I don't remember him testifying that.

Q Do you remember when Mr. Hooker asked Mr. Tweel?

MR. BERKE: If your Honor please, just a minute. I think that is improper to ask one witness about another.

THE COURT: Sustain the objection.

BY MR. NEAL:

Q Well, did Miss Fulton answer that one and talk to

you?

A A woman answered the phone.

Q All right. Now, sir, you say it was a bad connection, is that correct?

A That's right.

Q You didn't talk?

A No, I didn't.

Q As a matter of fact, you talked for a minute and 31 seconds, isn't that correct?

A Trying to hear each other, you know.

Q Trying to hear each other?

A Yes.

Q A minute and 31 seconds is some substantial period of time.

MR. SILETS: Objection, your Honor.

THE COURT: Sustained.

BY MR. NEAL:

Q All right, sir. Then you didn't hear anyone. You walked how many blocks and got in another phone booth?

A I don't roughly know how many blocks it is.

Q But you didn't wait to get back to your hotel to make this business call?

A No, sir, I didn't.

Q On the way back from O'Brien's Beefery you are telling this jury --

MR. ALEXANDER: (Interposing) Now, if it please the Court, he's making a speech to the jury.

MR. SILETS: He's been arguing this case for the last half an hour, your Honor.

THE COURT: Well, state your question.

MR. NEAL: I am entitled to cross examine the witness.

MR. SILETS: But not argue. You state the question, that is the proper procedure, your Honor.

End 13a
14 fls

BY MR. NEAL:

Q Mr. Dorfman, is it your testimony, sir, that on the way back from O'Brien's Beefery you were making a business call to Mr. Tweel which you stopped twice on the way back to your hotel rather than get back to your hotel to make a call?

A Yes, that is not unusual for me, Mr. Neal.

Q O. K. Now, sir, did you ever call Mr. Tweel in Nashville from Nashville rather, did you call Mr. Tweel any time when you were in Nashville?

A I could have.

Q Do you remember?

A I remember making a call, when it was, I don't recall the date.

Q I mean in addition to these calls this night? Did you call him thereafter from Nashville?

A I may have.

Q Did you call him on November 29th, as a matter of fact, two days later, at the American Cigarette Service Company in Huntington, West Virginia?

A I may have.

Q And that call was made from your hotel room, was it not?

A Could have been.

Q All right, you've been to Nashville twice now during the trial; when was your third trip to Nashville during

the trial?

A I don't recall, Mr. Neal. I'm sure I've been there other times.

Q Well, was it on December 4, 1962?

A That sounds about right.

Q Did you stay a couple of days on this trip?

A I don't know how long I stayed.

Q Well, how about two days? Does that sound about right? You left on the 6th?

A If the record shows I stayed two days I stayed there two days.

Q You don't recollect?

A No, I don't.

Q Don't recollect when you got there and when you left?

A No, I don't.

Q Now, did you make another trip to Nashville during the Hoffa trial?

A I have made several trips to Nashville during the Hoffa trial.

Q Pardon me?

A I have made several trips to Nashville during the Hoffa trial.

Q Well, when was your next one, do you remember that?

A I do not.

Q How about December 9th?

A If the record shows it I made the trip.

Q How long did you stay on this trip?

A I don't know.

Q Don't remember at all?

A No, I don't.

MR. SILETS: Your Honor, Mr. Neal has apparently has some records there which he is asking about his stay. I have asked time and time again to see the hotel records. If he has them, can we see them? Or can the witness be shown them?

MR. NEAL: Your Honor, I'm getting--

THE COURT: (Interposing) Overrule the objection.

MR. NEAL: Your Honor, we gave hotel records again last night. This is getting to be a little too bundlesome.

THE COURT: State your question.

MR. SILETS: May I state for the record, Your Honor, I haven't seen these hotel records that he is talking about.

THE COURT: All right. State your next question.

BY MR. NEAL:

Q This is December 9, how long did you stay on this trip?

A I don't recall, Mr. Neal.

Q Well, approximately, can you tell us approximately how long you stayed?

A No, if you have the record, show it and I will be happy to attest that I was there that length of time.

Q Well, Mr. Dorfman, you testified very specifically on direct examination with respect to telephone calls, I want to ask you how long you stayed?

MR. SILETS: Your Honor, objection, he is characterizing the testimony and that is argumentative.

THE COURT: Sustain the objection.

MR. SILETS: May he be admonished, Your Honor, I'm trying to keep count, I think this is about the eighth or ninth time that this has happened, Your Honor.

THE COURT: Well, proceed.

BY MR. NEAL:

Q How long did you stay there?

A I don't recall.

Q How about from December 9th to December 14th, does that sound about right?

A Could be.

Q O. K. Now, did you go to Nashville again during the Hoffa trial?

A I believe I did.

Q When was this?

A The exact date I don't know.

Q How about December 16th, does that sound about right?

A Could be.

Q All right, how long did you stay on this trip?

A I have no idea.

Q You have no idea at all?

A No, sir.

Q Couldn't even approximate it?

A I wouldn't begin to approximate it. You have a record there. I will attest to it.

Q How about December 23rd, let's say seven days on this trip the last one was five days.

MR. SILETS: Your Honor, I'm going to object again. I would like to state for the record this fact, last night after many weeks of asking for these hotel records I went to see Mr. Neal and Mr. Durkin and I got three documents. One of the records on December 4th of the Andrew Jackson Hotel. One and preceding the Hoffa case in Nashville and one at the Essex House, three documents. Now he obviously must have some information that he has never turned over to the defense or if he doesn't then he is misleading the witness and this jury. If they have them I think we are entitled to look at these documents.

MR. NEAL: May it please the Court, with respect to these statements in front of the jury, I am prepared to

take the stand and prepared to have two or three people take the stand that we turned over all of these records which I am examining upon January 18, 1964 for inspection and copying in this courtroom.

THE COURT: Proceed.

MR. SILETS: One oath requires another oath, Your Honor, I will testify and put my veracity at stake that I have never seen, testify that I have never seen any of the documents that he is now talking about.

THE COURT: Let's proceed with the examination.

BY MR. NEAL:

Q Was your answer that on this fifth trip to Nashville during the Hoffa trial you had no idea how long you stayed?

A That's correct, sir.

Q Well, I ask you from December 16th to December 23rd, does that sound about right?

A If the record discloses then that is true.

Q That doesn't refresh your recollection at all?

A No, it doesn't.

MR. NEAL: Would Your Honor indulge me just a moment.

BY MR. NEAL:

Q Going back to this time you made the telephone call--, telephone call to Mr. Tweel, from the Union Station--

A (Interposing) Yes, sir.

Q Was that telephone booth you said it was in the open and you had to stand up, was it on a post?

A Yes, post in front of the door as you walked in.

Q Post right in front of the door as you walked in?

A Yes.

Q Was it more than one telephone on this post?

A I believe it is triangle of some kind.

End 14

Tk 14A fol.

MR. NEAL: All right, let's ask that this be marked.

THE CLERK: No. 179.

(The photograph referred to above was marked for identification Exhibit No. 179.)

BY MR. NEAL:

Q While that is being marked, as you walked in the door, you walked off Broad Street, did you? Do you remember a big, broad, street, in Nashville, Tennessee?

A Big wide street?

Q Yes.

A Right.

Q And you walked right in the door off of Broad Street?

A Main entrance?

Q Yes, main entrance on Broad?

A Yes.

Q Okay. I show you what has been marked Government's Exhibit No. 179 and I will ask you if that is a picture of the phone, one of the phones, from which you spoke?

A That I can't tell.

Q Well, does it look like it?

A It looks like the kind of a phone setup that was referred to but whether this is it I don't know.

Q Do you know why then defense counsel offered in

evidence these pictures here of the Union Station?

MR. SILETS: Objection, your Honor.

MR. SCHIFFER: Objected to, your Honor.

MR. SILETS: That is improper.

THE COURT: Sustain the objection.

MR. SILETS: Your Honor, can we have an admonition to Mr. Neal? I mean it is embarrassing to get up time and time again and have to point out to him the proper method of examining a witness. He should be admonished by the Court.

THE COURT: Well, the Court will admonish him. It is proper to state your objections to the questions.

MR. NEAL: We would offer this in evidence, your Honor.

MR. SILETS: Offering it on the defendant's case?

MR.NEAL: These pictures of other places in the railroad station were offered during the cross examination of the Witness Partin.

MR. SILETS: But they were not admitted in evidence.

MR. NEAL: No, because the Witness Partin said they were not anything familiar to him.

MR. BRANSTETTER: May it please the Court, is counsel going to insist on arguing this matter at this point?

THE COURT: Well, admitted for identification purposes.

MR. BRANSTETTER: I am referring to the other matters, may it please the Court, counsel referring to not specifically what he is referring to.

THE COURT: Exhibit No. 179 will be admitted for identification only.

BY MR. NEAL:

Q Now, sir, actually after you made this call that was in the open, you didn't talk, or you talked a minute and 31 seconds, you actually walked up about two blocks to make another call, didn't you? Or block and a half?

A Two blocks. I don't know how far it was.

MR. SCHIFFER: Objected to, your Honor. This question has been asked two or three times already and answered two or three times.

THE COURT: Overruled.

BY MR. NEAL:

Q And you made the call across from the United States Courthouse on a corner, didn't you? The second call?

A That sounds about right.

End Tk 14A
Tk 15 fls

Q This time was in a phone booth?

A That is correct.

Q Just on the sidewalk?

A Yes.

MR. NEAL: All right. I ask that this be marked.

MR. DALE: 180.

(Photograph referred to above was marked Government's Exhibit No. 180 for identification only.)

BY MR. NEAL:

Q Is that one of the booths from which you made the second call on that night of November 27th?

A This looks like one of the booths.

Q Would you say it is?

A I would say it looks like one of them.

Q Well, do you recognize the courthouse in the background there?

A Yes.

Q Do you recognize in the far background the tower of the Union Station?

A Yes.

Q All right. Does that sound -- do you identify that as one of the booths?

A Yes, I would say it looks like one of the booths.

MR. NEAL: All right. Then we offer this in evidence.

MR. SILETS: Objection, your Honor, on the same basis.

THE COURT: Overrule that objection.

(The photograph previously marked Government's Exhibit No. 180 for identification was received in evidence.)

MR. NEAL: May we submit the other one to the jury as well?

THE COURT: No, sir.

MR. NEAL: May we submit this one to the jury?

THE COURT: Yes.

BY MR. NEAL:

Q Now, sir, could you tell us how Mr. Partin could know exactly where you made those phone calls?

MR. SILETS: Objection, your Honor. How could he determine Mr. Partin's mental processes?

MR. NEAL: Withdraw the question.

MR. BERKE: It's not that, that becomes argument, if your Honor please, and he, -- he continues to do this and the Court simply sustaining doesn't remedy the situation.

THE COURT: Sustain the objection.

MR. BRANSTETTER: May it please the Court, may we request a specific admonition from the Court to government counsel in this respect?

THE COURT: Well, let's not argue with the witness.

MR. SILETS: Your Honor, I am not sure that Mr.

Neal can abide by that because he has shown the propensity not to do that up until now. I think he should be specifically instructed.

THE COURT: Proceed.

BY MR. NEAL:

Q Now, sir, do you remember -- I would like to direct your attention to December 4th, this is the time you made your third or fourth trip to Nashville, I believe, during the Hoffa trial, isn't it true that at 11:58 a.m. you called Nicholas Tweel or Nicholas Tweel called you from New York City to you in your office and you spoke 53 seconds, do you remember that?

A No, sir, I don't remember talking to Mr. Tweel on that call.

Q You never talked to him?

A No, sir.

Q Do you remember the call?

A Seems I have a vague recollection of it.

Q Pardon me?

A December 4th?

Q December 4th.

A Yes, I have a recollection of that.

Q Pardon me?

A I have a recollection of that.

Q All right. What is your recollection then?

A I didn't talk to Mr. Tweel on that 53-second call.

Q Why not?

A I wasn't in my office.

Q Where were you?

A I think I was at the barbershop.

Q At the barbershop?

A Um-hmm.

Q Did you call him back?

A Yes, I did.

Q And then you left that afternoon for Nashville?

A If the record shows that I did.

Q Well, isn't that true, do you remember any recollection?

A I believe I left on December 4th back for Nashville, that's correct.

Q Now, sir, isn't it a fact that you told the Witness Partin to call Tweel?

A That is an absolute lie.

Q It's a lie, huh?

A Yes, sir.

Q You remember that distinctly?

A I sure do because I never had any conversation with Mr. Partin.

Q Do you remember you and Mr. Partin going to the

Defendant Hoffa and telling him that Tweel had a man who could help get to the jury but he needed a jury list?

A Mr. Partin never went with me to Mr. Hoffa at any time.

Q Do you remember being told by Nicholas Tweel or by Mr. Partin that, "Tweel says things are hot down there. They know about your call, they know about the jury list, they are watching Hall and I won't touch it because it's too hot"?

MR. SILETS: Are we going to get the whole record back in by asking the question?

THE COURT: Sustain the objection.

MR. SILETS: May the jury be instructed to disregard that and I also again call upon the Court to restrain Mr. Neal from his highly improper tactics.

MR. NEAL: Your Honor, I am entitled to ask him what he knows.

THE COURT: Proceed.

MR. NEAL: All right, sir.

BY MR. NEAL:

Q Now, do you remember, sir, that when you were in Nashville on December 4th, do you remember having a discussion in front of the Andrew Jackson Hotel where Hoffa was standing, you were standing and Partin was standing and you were talking about the fact that Tweel said we knew all about it?

MR. SILETS: Your Honor, there's nothing in the record about that. If Mr. Neal has some information he must have somebody who was standing there with an eavesdropping thing, the fact is that it never occurred and if he has some information let him show it to the witness.

MR. NEAL: Well, Mr. Silets --

MR. SILETS: (Interposing) There's nothing in the evidence about that.

MR. NEAL: If Mr. Silets says it never occurred, I don't know that he can testify to that.

THE COURT: Let's proceed.

MR. NEAL: I want to ask the question, your Honor.

THE COURT: State your question.

BY MR. NEAL:

Q The question is, sir, isn't it a fact that on your trip on December 4th you and the Defendant Hoffa and with the Witness Partin were standing in the Andrew Jackson -- standing in front of the Andrew Jackson and you were discussing the fact that Tweel said the government knew all about these calls and the jury list and Dallas Hall?

MR. SCHIFFER: Objected to, your Honor,

MR. SILETS: Object to that.

MR. SCHIFFER: At that time, there is no foundation for this question in the record, your Honor, there is no relationship to any such thing in the record.

THE COURT: If he can answer the question.

MR. SILETS: There's not one scintilla of evidence.

MR. SCHIFFER: Nothing.

MR. SILETS: Not even that man Partin said that.

THE COURT: Well.

BY MR. NEAL:

Q The Court says you may answer the question. Would you answer the question?

A No such conversation ever took place.

Q Pardon me?

A No such conversation ever took place in my presence.

Q Isn't it true that at that time Hoffa asked you how you made the calls to Tweel?

MR. SILETS: Your Honor --

Q (Interposing) You said you used your credit card?

MR. ALEXANDER: May it please the Court --

MR. SILETS: (Interposing) This is calculated only to prejudice the jury. He said there was never such a conversation, there's not one piece of evidence that that conversation existed and now Mr. Neal is -- you know he can read anything and say, "Didn't it happen," but the fact is the jury may feel that it did happen despite the denial of the witness.

Now, I can ask Mr. Neal was he out in left field

yesterday, it doesn't mean that he was and there is no evidence that Mr. Dorfman had this conversation.

THE COURT: Sustained.

MR. SILETS: Or that Mr. Neal was out in left field.

THE COURT: Sustain the objection to the form of the question.

MR. NEAL: May I probe a little further on this, your Honor?

THE COURT: I sustained the objection to the form of the question.

MR. NEAL: The form of the question?

BY MR. NEAL:

Q Now, sir, at this time did the Defendant Hoffa tell you --

MR. SILETS: (Interposing) Your Honor, he already denied the existence of the conversation. Now Mr. Neal is again trying to go over what he wants to establish as the conversation.

THE COURT: Overrule the objection.

BY MR. NEAL:

Q Did Defendant Hoffa tell you at this time and call you stupid for using your credit card and stating that he only wanted -- he only used a credit card when he wanted people to know who he was calling?

MR. SCHIFFER: Objection.

MR. BERKE: We certainly want to object.

MR. ALEXANDER: We object.

MR. SILETS: Now, your Honor --

THE COURT: (Interposing) Sustained.

MR. BERKE: Your Honor --

THE COURT: (Interposing) Sustain the objection to the form of the question.

MR. BERKE: If your Honor please, I distinctly recall at one time during my cross examination the Court said now if I have some basis for that question he would permit me to ask it and I produced the basis for it.

Now, if your Honor please, your Honor is permitting this Mr. Neal here to go ahead and ask the question, there is nothing in the record about it. He has nothing to support that or at least he doesn't offer anything to support it and we say the asking of the question is certainly prejudicial. The Court would not let us do it unless we had some foundation and I had to pass the foundation up to the Court to show that I had a basis for it.

Now, it's apparent here that Mr. Neal doesn't have any basis for it. Now, there's three or four questions that Mr. Neal has already asked that there's no basis for it, there's no evidence in the record on it, he doesn't have any supporting documents to support him on his question, and we

think that the asking of the question itself is prejudicial, it's not a question of sustaining the objection, that doesn't carry the defect, it's the asking of the questions when he doesn't have anything to support it.

Now, if the Court instructed me to show some supporting evidence of that before I can probe into it I think the same rule ought to apply to Mr. Neal.

End 15
16 fls

If he has any supporting evidence on which he has a right to make these kind of remarks to the witness, in the presence of the jury, then he should show it to the Court. We had to do it. We think this, that Mr. Neal should do it, too.

THE COURT: Sustain the objection.

MR. NEAL: Your Honor, I have to lay a foundation for these things before I can bring it out.

MR. SILETS: I didn't hear it. Your Honor, I move for a mistrial. Your Honor, I have asked Mr. Neal, that Mr. Neal be restrained. Your Honor has sustained prior questions involving the same kind of prejudicial subject matter and despite of this he persists and comes back with something of this sort. The next thing I know he will say did Mr. Hoffa tell you to kill somebody. Didn't Mr. Hoffa tell you to run a gambling den. That doesn't mean he did.

You know it is, however, how ridiculous can you get?

MR. GRADY: I would like--

THE COURT: (Interposing) Overrule the objection.

MR. GRADY: I would like to answer, your Honor, that is also true in the case of Mr. Tweel and goes back into about three degrees removed hearsay. Supposed to be, asked him about some conversation that Tweel was supposed to have had some time or another, this whole case against

Tweel has been this hearsay proposition once, twice, and three times removed and we object to it and move for a mistrial.

MR. SCHIFFER: On behalf of the Defendant Parks, your Honor, we move for a mistrial or a severance and I think either alternative is all that can at this stage give Mr. Parks a fair trial because the record will reflect, I am positive now, that in each and every instance where defense counsel in attempting to question a witness have been overruled that the government despite the admonition of the Court is permitted time after time after time after time to persist in the violation of your Honor's instructions. Now, either he is going to conform for the prosectuion with the orders of the Court or let us declare this a mistrial because he is rapidly making a farce out of what should be a very serious trial, your Honor. The jury sits here. They are entitled to hear the evidence.

THE COURT: All right, all right, Mr. Schiffer. All right, Mr. Schiffer.

MR. SCHIFFER: Look what goes on. How many times will he do it, Judge?

THE COURT: All right, Mr. Schiffer. All right, Mr. Schiffer.

MR. SCHIFFER: I move for a mistrial or a severance and those are the only two alternatives that can

protect my client. The Court won't help him.

THE COURT: Overrule the motion.

MR. BRANSTETTER: May it please the Court, on behalf of the Defendant Campbell I now move for a mistrial and/or severance. I will not argue the matter. The Court is familiar with the briefs and arguments made where no fair trial can be had. I now move for a mistrial and the record is now clear which sustains our position.

THE COURT: Overrule the motion.

MR. BROWN: As to Defendant King also.

MR. HAGGERTY: Same motion on behalf of the Defendant Hoffa, your Honor.

THE COURT: All right, made as to all defendants. All motions overruled.

MR. NEAL: Would your Honor indulge me for just a moment?

THE COURT: All right. All right, any further examination of this witness?

REDIRECT EXAMINATION

BY MR. SILETS:

Q Mr. Dorfman, Mr. Neal inquired of your business relationship with Mr. Hoffa, you don't have any knowledge of all of his business dealings, do you?

A All of whose business?

Q Mr. Hoffa's.

A Of course not.

Q Now, these very ventures that Mr. Neal inquired of you, aren't those the same ventures that you were asked to bring records down about in the last case in Nashville, Tennessee?

A Exactly the same records.

Q Now, all of these questions concerning the phone calls on that Sunday, is this unusual for you to exchange calls back and forth when making arrangements to come down to Nashville or to any other city?

A No. Quite to the contrary. I have done this quite often.

Q As a matter of fact, just like Mr. Tweel, your phone bills are quite voluminous, aren't they, long distance calls?

A I would say I pay about $2,000 a month.

MR. BERKE: How much? I didn't hear that.

THE WITNESS: About $2,000 a month for phone bills.

MR. BERKE: Thank you.

BY MR. SILETS:

Q Now, you also said that when you came in on the Sunday that you didn't have any recollection about registering. Was it uncommon for you to come in when you came in late at night to stay in somebody else's room?

A No, sir, there were plenty of rooms available.

Q As a matter of fact, do you remember Mr. Partin saying that this was not unusual during the course of the Hoffa case that people, Teamsters would stay in other rooms?

MR. REDDY: Now, your Honor, we object to that. That is argument for the jury.

THE COURT: Sustained.

BY MR. SILETS:

Q Now, this phone call that you made from the railroad station, that was an open booth, wasn't it?

A Right out in the open.

Q If you were trying to read a jury list or something, would you stand in the open?

A No, sir.

MR. HOOKER: We object to that. Argumentative.

MR. SILETS: All right.

BY MR. SILETS:

Q Well, you went down the street to a phone booth, is that right?

A That is correct.

Q Now, Mr. Neal has through this picture pinpointed that it was across the street from the Federal Courthouse?

A That's correct.

Q As a matter of fact, wasn't Mr. Neal, didn't he have his office in the Federal Courthouse?

A I am sure he did.

Q And didn't all of the FBI agents have their office in the Federal Courthouse?

A They sure did.

Q Is that a place that you would pick to read a jury list?

A Certainly wouldn't think so.

MR. REDDY: Your Honor, we object to that. Argumentative. We object to it.

THE COURT: Sustained.

BY MR. SILETS:

Q Now, I think the record shows that there was a phone call I think that was introduced in evidence somewhere along the line about your calling on December 4th from Chicago, and I believe there was a reference to the fact that it was from a pay station, isn't it true that when you answered Mr. Tweel's call you called from a barber shop that only has a pay station?

A That is true.

Q For its customers?

A That's correct.

MR. SILETS: Nothing else, your Honor.

THE COURT: All right. May this witness be excused?

MR. SILETS: Yes, your Honor.

THE COURT: Step down, Mr. Dorfman.

THE WITNESS: Thank you.

(Witness excused.)

THE CLERK: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Have a seat, sir.

ALVIN BARON,

a witness called at the instance of the Defendant Allen M. Dorfman, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. SILETS:

Q Will you state your name?

A Alvin Baron.

Q What is your address, Mr. Baron?

A 9125 North Keller Avenue, Skokie, Illinois.

Q What is your occupation, Mr. Baron?

A I'm an attorney at law.

Q How long have you been engaged in the practice of law, Mr. Baron?

A Twelve years.

Q And what bars are you admitted to practice before?

A State of Illinois, and the United States District Court.

Q Is your practice specialized in any way?

A Yes, it is. In the field of real estate.

Q Well, do you, yourself, own any real estate?

A Yes, I do. I own apartment buildings. Commercial properties and industrial buildings.

Q Well, are you considered a specialist in your field?

A Yes, I am.

Q Do you know Mr. Allen Dorfman?

A Yes, I do.

Q Now, how do you know him, both socially and business?

A Both socially and business.

Q What was your business acquaintance with Mr. Dorfman?

A I have represented Mr. Dorfman in real estate matters and have been associated with him in other real estate matters.

Q Well, directing your attention specifically to some time after October 12, 1962, did you have a conversation with Mr. Dorfman concerning some property in West Virginia?

A Yes, I did. Mr. Dorfman called me upon his return from Huntington, West Virginia, and in the course of

conversation he said he saw two properties. One was the Hotel Pritchard and one was the West Virginia Office Building, and he would like for me to evaluate these properties for loan purposes.

End Tk 16
Tk 17 fls.

Q Did he advise you whether a Mr. Nicholas Tweel was interested in those buildings?

A Yes, he did.

Q And were you ever furnished with anything by Mr. Dorfman concerning the properties?

A Around Thanksgiving Mr. Dorfman forwarded me two brochures on said properties.

Q Are these the documents? I show you Exhibits 165 and 166.

A Yes, they are.

Q Now,you say that was in November, 1962, that you got those documents?

A That is correct.

Q Now, what did you do with them after you received them?

A I read them and then I called Mr. Dorfman and said that we should get appraisals on the different properties, on these two properties.

Q Will you tell the jury what you mean by an appraisal.

A Well, an appraisal is a statement, usually by a registered appraiser in that locale, giving the valuation of the property, its land value plus construction, rental and replacement cost.

Q Did Mr. Dorfman ever get those appraisals to you?

A No, he did not.

Q Do you know whether he attempted to get those?

A I had asked Mr. Dorfman on different occasions if he received the appraisals, he said he did not.

Q Have you ever met Mr. Tweel?

A Yes, I met Mr. Tweel in the Summer, in July of 1962 in Miami Beach, Florida.

Q Can you recall who else was present then?

A At that time there was Mr. Dorfman, Mr. Tweel, Mr. Kalil, and Mr. Saul Silverman.

Q Is that Mr. Silverman the owner of a race track?

A Yes, it is, he is the owner of Tropical Park Race Track in Miami.

Q Now, without going into great detail, can you tell us generally what the topic of discussion was?

A There was some discussion about the purchase and loan for a race track in Boston called Suffolk Downs.

Q Do you know whether Suffolk Downs was ever purchased?

A No, it was not, as far as I know.

MR. SILETS: That's all.

MR. HOOKER: Is that all?

MR. SILETS: Yes, that's all.

MR. HOOKER: Anything from any of the other defendants?

CROSS EXAMINATION

BY MR. HOOKER:

Q How do you pronounce your name, sir?

A Baron.

Q Baron?

A Right.

Q Do you know anything at all about the facts of this particular case that we are trying here before the jury,Mr. Baron?

A Yes, I do.

Q Do you know anything about what occurred about various conversations between Mr. Dorfman and Mr. Tweel?

A Whatever I know I have stated here in the court-room.

Q You have already stated?

A Yes, sir.

Q That's all you know about it?

A That's right.

Q Were you ever in Nashville during the trial of James R. Hoffa, United States versus James R. Hoffa?

A No, I wasn't.

Q And all you have stated to the jury is everything you know about the matters we are investigating here?

A That is correct.

MR. HOOKER: That's all. Stand aside.

THE WITNESS: This witness may be excused?

MR. SILETS: Yes, Your Honor.

THE WITNESS: I am sorry.

(Witness excused.)

MR. DALE: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, nothing but the truth, so help you God?

MR. BREEM: I do.

MR. DALE: Have a seat, sir.

MYER BREEM,

a witness called at the instance of the Defendant Dorfman, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. SILETS:

Q Will you state your name, sir?

A My name is Myer Breem.

Q How do you spell your last name?

A (Spelling) B-r-e-e-m.

Q Where do you live, Mr. Breem?

A 12--, or 2400 Lakeview, Chicago, Illinois.

Q You just recently moved, is that right?

A That's right.

Q What is your occupation, Mr. Breem?

A I am the president of Amalgamated Insurance Agency Service, Inc., and the office manager.

Q Are you licensed to practice law?

A Yes, I am.

Q You say you are also the office manager as well as the president of the company?

A That is correct.

Q And where are you licensed to practice law?

A In the state of Illinois.

Q Do you know Mr. Allen Dorfman?

A Yes, I do.

Q What relationship, if any, does Mr. Dorfman have with Amalgamated Insurance Agency Service?

A Mr. Dorfman is the general manager of Amalgamated.

Q And who owns Amalgamated, if you know?

A The Dorfman family.

Q Do you work under the supervision of Mr. Dorfman?

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Begin 17A

A Yes, I do.

Q Were you so employed in the year 1962?

A Yes.

Q Now, I direct your attention to the month of October, 1962. Do you recall an instance where Mr. Dorfman flew to Nashville prior to the start of the Hoffa case?

A Yes, I do.

Q And just prior to his going to Nashville were you

asked by him to find certain records?

A Yes.

Q Can you explain the circumstances of the request?

A Yes, it was the Saturday night immediately preceding the trial that he called me at home and asked me to go down to the office to obtain the following files, on Northwestern Oil, Jack-O-Lantern Lodge and Joel property. He told me that he had received a call from Mr. Hoffa who needed them in conjunction with the trial.

MR. HOOKER: We object to that, if Your Honor please.

THE COURT: Well, sustain the objection as to what they were needed for.

BY MR. SILETS:

Q That was the Saturday night and he called you in the evening at home?

A That is right.

Q That would have been October 20th, according to this calendar?

A Correct.

Q 1962. Did he tell you whether those documents were needed immediately?

A Yes, he did, he told me that.

MR. HOOKER: We object to that.

BY MR. SILETS:

Q What did he say?

A He told me that he wanted me to go down to the office, to immediately go to the files, get those files ready, prepare them for him to transport them down to Nashville.

Q Now, did you do that?

A Yes, I went down to the office that Saturday night, I went to the files, I went through them and obtained the files that he had requested. When I finished locating those files I called Mr. Dorfman that night and told him that I had them ready but that I would like him to come down to the office the next day, which was Sunday, the 21st, to go over them with me to make absolutely certain that these were the documents he wanted?

Q Did he go over them with you?

A Yes, he said he would appear and he came down to the office the next day and we went over them together.

Q Well, to the best of your recollection when was this that he actually came into the office?

A He came in the office around noon or very shortly thereafter.

Q Then, if you know, did he actually go to Nashville?

A I know that he took the files from the office and left with them. He told me, of course, he was going to Nashville.

MR. SILETS: That's all.

CROSS EXAMINATION

BY MR. HOOKER:

Q You don't know what time he left or how he went or anything about the details.

A He left the office somewhere in the middle of the afternoon.

Q What time he left for Nashville you have no information about that.

A No, I don't know when he left.

MR. HOOKER: Stand aside. Just a moment.

MR. SILETS: That's all, Mr. Breem.

THE COURT: May this witness--, just a moment--, may this witness be excused?

MR. SILETS: Yes, Your Honor.

MR. HOOKER: That's all.

(Witness excused.)

MR. DALE: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. SCHWARTZ: Yes, I do.

MR. DALE: Have a seat, sir.

SAUL SCHWARTZ,

a witness called at the instance of the defendant Dorfman,

being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. SILETS:

Q Would you state your name, sir?

A Saul Schwartz.

Q Spell your last name, sir, for the reporter.

A (Spelling) S-c-h-w-a-r-t-z.

Q And where do you reside, Mr. Schwartz?

A 3700 Walnut, Inglewood, Illinois.

Q What is your occupation?

A I am a licensed insurance agent, general insurance broker and an associate of Mr. Dorfman of various insurance interprises, I am a partner of his.

Q What business are you an associate of Mr. Dorfman in?

A I hold various offices in three or four insurance entities.

Q Are you a partner of his in something known as Southwestern Insurance Agency?

A Yes, I am.

Q Now, as a partner in Southwestern Insurance Agency did you ever subscribe for shares of stock in the American Hemisphere Life?

A Yes, I did.

Q I show you what has been marked as Exhibit 175

in evidence, oh, I'm sorry, it's for identification, which is a check of the Southwestern Insurance Agency, dated July 25th, 1962, and in the sum of $625.00. Is that your signature on the check?

A Yes, it is.

Q Can you tell us the purpose for issuance of the check?

A To purchase or subscribe for 2500 shares in American Hemisphere Life of West Virginia.

MR. SILETS: Your Honor, may I offer that in evidence, please?

THE COURT: All right. Exhibit No--

Q (Interposing) I show you--

THE COURT: (Interposing) What was the exhibit?

MR. DALE: No. 175.

(The check previously marked Exhibit No. 175 for identification only was received in evidence.)

BY MR. SILETS:

Q I show you what has been marked as Exhibit 174, a check of the Amalgamated Insurance Agency Service, Inc.-- By the way, are you in any way connected with Amalgamated Insurance Agency Service, Inc.?

A Yes.

Q What is your connection with that?

A I am secretary.

Q Secretary of the corporation?

A Right.

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Q Now, this check, Exhibit No. 174 is dated July 5, 1962, payable to Mr. James Kalil in the sum of $11,500, do you know the purpose for which this check was drawn?

A Yes, I do.

Q Will you tell the jury?

A There was a loan made to Mr. Kalil to purchase 90,000 shares of stock in American Hemisphere Life.

Q How many shares?

A 90,000; 90,000 shares of stock in the American Hemisphere Life Insurance Company of West Virginia.

Q Was there some understanding as the basis for this loan from Amalgamated to Mr. Kalil?

A Yes, there was.

Q What was that understanding?

A That Amalgamated would be given the exclusive service agreement for American Hemisphere Life.

Q Well, would you tell the jury what an exclusive service agreement is?

A Exclusive service agreement allows an agency to function as an insurance company to the extent that they may pay claims, process claims, and administrate, issue policies, and enter into various miscellaneous underwriting functions. They receive a fee for this arrangement. It is a very lucrative arrangement.

Q Profitable business?

A Extremely.

Q How were you to accomplish the services agreement through Mr. Kalil?

A The combined shares in the company, Mr. Kalil's, Mr. Tweel's, and mine, gave us virtually working control. To this extent we controlled the issuance of the service fee contract.

Q Now do you know what interest Mr. Dorfman has in the Amalgamated Company that loaned this money?

A The Amalgamated Insurance Agency, Inc., is owned by the Dorfman family.

Q Do you know whether this insurance company that was going to be organized, American Hemisphere Life, encountered any trouble or problem in attempting to sell its stock to the public?

A Yes.

Q What was the problem it had?

A We were advised that we might anticipate problems with the S.E.C. registration because the bulk of the stock was in the hands of just a few.

Q Well, now, I direct your attention to specifically October 12, 1962, did you have occasion to attend the meeting of the American Hemisphere Life Insurance Company in Huntington, West Virginia?

A Yes, I did.

Q Was Mr. Dorfman present?

A Yes.

Q Now, to the best of your recollection, can you tell us who else was present?

A I can't recall all of them. Mr. Dorfman was there. Myself. Mr. Tweel. And Mr. Kalil.

Q Now that meeting was held pursuant to a program proposed agenda, it was a formal meeting, wasn't it?

A Yes.

Q Now to your knowledge on that occasion while you were present did Mr. Dorfman have any conversations with Mr. Tweel?

A Yes, he did.

Q Did they discuss the organizational problems of this company?

A Yes, they did.

Q Now, while you were in Huntington, West Virginia, did you make any long-distance telephone calls?

A I may have, yes.

Q And would they have been charged to Amalgamated's phone number which has been referred to as Mr. Dorfman's, Whitehall 3-0024?

A Yes, they would have been charged to the Whitehall number.

Q That was the business phone?

A Right.

Q Now somewhere along in this case, Mr. Schwartz, you weren't here, but there was a reference to a call to Louisville, Kentucky, from Huntington, West Virginia, on Columbus Day which was October 12th, did you make that call?

A I could very well have.

Q What do you mean you very well could have?

A At that particular time we maintained an insurance agency in Louisville. And because of some managerial problems I was almost in constant touch with the office. Nothing exceptional.

Q Does the government have that telephone toll ticket?

MR. REDDY: It is in evidence.

MR. SILETS: No, it wasn't. The call of October 12th.

BY MR. SILETS:

Q In any event, do you remember the name of the lady who was in the charge of the office there?

A Betty Kelly.

Q Betty Kelly?

A Yes.

Q By the way, Mr. Schwartz, to your knowledge was American Hemisphere Life Insurance dissolved?

A Yes.

MR. SILETS: Your Honor, I offer this second check

in evidence if I may.

THE COURT: All right, Exhibit No. 174.

MR. SILETS: May that be passed to the jury?

THE COURT: Yes.

MR. SILETS: No further questions.

(The check referred to above previously marked Exhibit No. 174 for identification was received in evidence.)

CROSS EXAMINATION

BY MR. HOOKER:

Q Mr. Schwartz, on what basis was this stock issued?

A Would you repeat the question, sir?

Q Did I understand you to say that the check there for $11,500 was in payment of 90,000 shares of stock?

A The check for $11,250?

Q Yes.

A That was a loan to Mr. Kalil for the purchase of 90,000 shares of stock in the American Hemisphere Life.

Q And that was the purchase price of it?

A Yes. That would be my best guess.

Q Well, it was issued at a very small value per share, was it not?

A I believe it was, yes.

Q And the company never was actually organized? Never did get in business?

A Not from the standpoint of actually going into

production, selling business.

Q Were you ever in Nashville, Tennessee, during the trial of the case United States versus James R. Hoffa?

A No, I wasn't.

Q You don't know anything other than what you have stated about the matters we are investigating here today?

A I certainly do know.

Q I say anything further than you have already stated?

A What else --

Q (Interposing) What else do you know about this case?

A Well, it stands to reason being associated with Mr. Dorfman I would be in regular touch with him. It is of interest and concern to me I also am of the opinion that this entire proceeding is merely means to frame Mr. Dorfman and Mr. Hoffa.

MR. HOOKER: We object to that speech, if your Honor please.

THE COURT: Sustain the objection.

MR. HOOKER: We ask your Honor to direct the jury not to consider it.

THE COURT: Disregard the statement, ladies and gentlemen of the jury.

BY MR. HOOKER:

Q Who told you to say that?

A I repeated something almost similar in the Grand Jury proceedings.

Q I say, when were you told to say that?

A I wasn't told.

Q Who did you talk to last night about making this answer that you have just made?

A Didn't discuss it with anybody.

Q Are you certain you didn't?

A Certain.

Q Were you required to come before the Grand Jury?

A Yes, sir.

Q In Nashville, Tennessee?

A Yes, sir.

Q Were you ever there during the trial at all?

A No, sir.

Q Do you know Mr. Tweel?

A Yes, sir.

Q How long have you known him?

A I met Mr. Tweel October 12th at the American Hemisphere Life Insurance Company organizational meeting and I met him --

Q (Interposing) You never met with him at any time in Nashville?

A No, sir.

MR. HOOKER: That is all.

MR. SILETS: You may step down, Mr. Schwartz.

THE COURT: All right, may this witness be excused?

MR. SILETS: Yes, sir.

THE COURT: All right. You may be excused.

(Witness excused.)

MR. SILETS: Your Honor, at the moment I don't have anything further. I may have a witness who is flying in, your Honor, but according to your Honor's suggestion if there was a good reason for matters being taken out of order, I don't know if they will even be able to come in today, your Honor.

THE COURT: All right, well, rather than start on another witness then at this time let's excuse the jury until 1:30. Observe the usual instructions, ladies and gentlemen. Do not talk to anyone or allow anyone to talk to you about the case.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

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THE COURT: Yes, Mr. Brown.

MR. BROWN: Your Honor, it seems at this time as the defense has moved along rather fast, did I understand the Court this morning on my motion to say that I had previously submitted, to say that the government would respond in the motion for--

THE COURT: (Interposing) Have you had an opportunity to examine Mr. Brown's motion?

MR. NEAL: Yes, and we did not receive it yesterday. We had it. They served us and somehow it got in other records. Your Honor, this is not a motion to produce but a motion to suppress evidence, the same thing. I will read it.

"Ewing King by his counsel moves that all evidence which was secured directly or indirectly by interceptions and divulgence of telephone conversations and listening to the telephone recordings of these conversations with James R. Hoffa and or any defendant and other persons that were used by the government in this case be suppressed.

"Furthermore, Ewing King by his counsel moves that no questions of any defendant in this case or of any of the defendants witnesses based on information received directly or indirectly as a result of the unlawful interception and divulgences of telephone conversations be asked by government counsel.

"Ewing King demands an immediate hearing as required by law on this motion.

"Respectfully submitted, attorney for Defendant King."

Is that the motion, Mr. Brown?

MR. BROWN: That is it, Your Honor, and it is my understanding yesterday morning that the court had asked the government to respond as to whether they had any such recordings or tapes.

THE COURT: Well, I will check the record on that during the recess.

MR. NEAL: We have made our response to this motion, too, Your Honor.

MR. BROWN: I gather then from the response, if the Court please, that the answer they filed as to the Hoffa matter was--, in other words, that is all the government has? Am I to understand Mr. Neal correctly?

MR. NEAL: No. Mr. Neal never responded to that. The government responded. The response speaks for itself.

MR. BROWN: I never have seen that.

MR. NEAL: We served six copies over there.

MR. BROWN: I never have seen a copy of any response.

MR. SILETS: Your Honor, I would like to now subpoena the United States Government, all hotel records and

airline records pertaining to the Defendant Allen M. Dorfman in the possession of the government obtained by process relating to the months of October, November and December, 1962. May the record show I am handing it to Mr. Neal and filing the original with the Court.

THE COURT: All right.

MR. NEAL: We move that it be suppressed, Your Honor.

MR. BROWN: Your Honor, I would like to state for the record that I have never received an answer or response to this motion to suppress.

THE COURT: Well, the Court will have to check the record, Mr. Brown, on that. I didn't have any recollection of anything being filed by you other than a motion to suppress. I will check the record on that.

MR. SCHIFFER: Your Honor, the Defendant Parks likewise filed a motion yesterday and we are in this position right now, Your Honor, that since we must go forward now with our evidence in chief for the defense without this information supplied by the government at this time before we commence, we are seriously prejudiced at this time before the defendant or any witness takes the stand. And we feel that the government has had enough time now to commit itself as to whether or not there are these tapes and other recordings whatever or not, electronically, and without that

information which the government should be forced to disclose at this time certainly before the Defendant Parks' case goes in, we feel that to avoid prejudice to the defendant the government should proceed with that and at least before the Defendant Parks continues with his defense.

THE COURT: All right.

MR. BRANSTETTER: May it please the Court, on behalf of the Defendant Campbell I filed a motion also to suppress and I believe that government counsel is misconstruing the law totally in this respect. The Rathburn case and the Binetti case clearly hold that once there is any evidence in the record at all that there has been wiretapping that then the burden shifts to the government to produce any and all such evidence and to show that the same was not secured in any illegal manner. I think that is a fair statement of the law.

We have filed such a motion. The government has responded. And has admitted in the response both by statement of counsel and by affidavit of the witness, that there were attachments made to a telephone intercepting certain telephonic conversations. Once that has been established, the case law is clear. The burden then shifts to the government to prove, one, and to establish, one, that such was not illegal, and, two, that any information that they may have achieved as a result of this or flowing from it has

not been used in evidence.

We respectfully request the Court to proceed in accordance with the two cases, the Binetti case and the Rathburn case.

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MR. SILETS: Your Honor, I filed a motion this morning alleging possible wiretap or illegal interception with the Defendant Dorfman and other witnesses or calls between Dorfman and Hoffa or any other conversation.

Now, I think the Court called upon the government to respond to that and I suppose that is the next procedure.

MR. NEAL: May I say one thing, your Honor? It's amazing to me how Mr. Branstetter can argue the way he argues. It may be, your Honor, I try to be fair with the Court, but the government has to make sure to do everything it can so that no reversible error is committed by anyone, it may be, your Honor, I am not admitting it, it may be that if the defendants show any illegal interception and divulgence of telephonic communications then the government may have the burden of coming forward and showing that this evidence is not tainted with such illegal interception and divulgence that there has been such a continuation between the illegality and the evidence that the prosecution should be permitted to continue. That may be the rule once they show that there has been illegal interception and divulgence.

The government has admitted no illegal interception and divulgence. The government submits there has been and is none and the defendants have absolutely and totally failed to show that.

Now, that's what we are standing on and we stand

on the Lawn case and the Nardone case and the Rathburn case for these propositions.

MR. BRANSTETTER: May it please the Court --

MR. NEAL: (Interposing) As your Honor, I am sure, will see that we are right.

MR. BRANSTETTER: Now, may it please the Court, Mr. Neal first said that he doesn't understand how I can argue, then he goes ahead to agree with me.

Our position is very clear in this matter that the government has filed an affidavit stating that they had used a contraption to place on a phone to intercept telephonic conversations. That is admitted, I think, at this point.

At this point may we ask for a complete hearing and subpoena witnesses and have filed affidavits establishing that such was illegal and we filed the regulations of the Federal Communications Commission requiring a beep, beep, or some information, making it a criminal offense not to do so.

This is illegal or tainted evidence under both the established law and the rules and regulations. We asked for an immediate hearing.

Now, may it please the Court, I do not know how we can proceed further in this respect when the government, when the matter is now before the Court and constitutes

admittedly illegally obtained evidence.

MR. GRADY: If your Honor please, may I say this for the record, adopting everything they have said, without trying to take up any time or be repetitious, but we filed our first motion to suppressed evidence yesterday and we hadn't filed one previously because we were led to believe, and I will be glad to go back in the transcript, by Mr. Neal, as an officer of the court, that no recordings were in existence.

It now turns out that he has been using a play on words. He says, "No illegal recordings." He now admits there are phone recordings and, of course, this affects Mr. Tweel very much. It's his tie-up, basically this man Partin and that's who the recordings are made by supposedly and he is putting himself in the position of taking the place of the Court passing on the legality or the illegality or using this play on words by misleading counsel as an officer of this court and I suppose misleading the Court by saying there are no illegal recordings and passing himself upon the legality or illegality of the recordings and leading us to believe that there are no recordings because of that play on words and because of his using the power of himself to pass upon whether they are legal or illegal and we feel like we are entitled to know whether they are recordings and how many of them there are and not be based on his opinion of whether

they are legal or illegal.

THE COURT: All right. The Court will --

MR. HAGGERTY: (Interposing) May it please the Court, I have several matters. First is a motion at this time based upon the questions formulated by Mr. Neal, some of which were objected to and sustained. It discloses that a surveillance was made of Mr. Hoffa during the Nashville 1962 trial of his witnesses and of his attorneys.

Therefore, I move the Court at this time to order the government to turn over to the defense all reports of surveillance of the defendant, his witnesses, his counsel, in the Nashville trial in 1962.

THE COURT: All right. I believe that motion should be overruled.

MR. HAGGERTY: Further, your Honor, I am filing a new motion to suppress evidence which in addition to the phone call embraces evidence secretly or directly or indirectly by bugging of rooms, offices, or conversations between Mr. Hoffa and any other defendants or between him and Mr. Partin or between him and any other witness for the government be suppressed.

This motion to suppress is more comprehensive than the one that is now pending before the Court. I serve Mr. Neal, Esquire, and file with the Court this motion.

THE COURT: All right, all right. Gentlemen, if

there is nothing further at this time, we will recess court until 1:30.

(Thereupon, at 12:07 o'clock, p.m., court was adjourned for the noon recess until 1:30 o'clock, p.m.)

End 19
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AFTERNOON SESSION

1:30 O'Clock P. M.
February 18, 1964

(Thereupon, pursuant to adjournment for the noon recess, court was in session.)

(The jury of 12 and 4 alternates remained excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

THE COURT: Yes, Mr. Haggerty.

MR. HAGGERTY: Your Honor, may I interrupt the proceedings at this time?

THE COURT: Yes, sir.

MR. HAGGERTY: I call Mr. Neal to the stand.

THE COURT: What is the purpose of this, Mr. Haggerty?

MR. HAGGERTY: The purpose of this, may it please the Court is this, it has been disclosed on Mr. Neal's examination, his cross examination of the Defendant Dorfman that information is in the possession of Mr. Neal upon which he predicated facts or alleged facts contained in his questions to the effect that in front of the Andrew Jackson Hotel there were three people present and that Mr. Hoffa made certain statements to Mr. Dorfman.

Now, may it please the Court, one of several things are possible. Either there was surveillance of the

Defendant Hoffa at that time and his witnesses.

Or that an electrical device of some kind was used by someone to pick up this alleged conversation.

Now, if Mr. Neal is in possession of either the information on the surveillance or the information on the use of electrical or mechanical devices to pick up this alleged conversation, I think that we are entitled to know at this time whether or not they are in the possession of Mr. Neal. And if so, we then will request that he produce those devices or produce the record of the surveillance.

And I think we are entitled to it now.

THE COURT: All right. What does the government say?

MR. NEAL: Your Honor, they have no right-as far as me taking the stand I never have any objection to taking the stand. But they have no right to any sort of whatever they are asking for, surveillance records, recordings, and so forth.

MR. HAGGERTY: In view of the fact that Mr. Neal has represented to this Court there was no surveillance, in view of the fact the representation has been made to this Court there were no recordings, I certainly think we are entitled to them.

MR. NEAL: I ask Mr. Haggerty to point out the record where I have said there were no recordings. I asked

him to point out the record where I said there was no surveillance in the last trial.

THE COURT: Let's do this, gentlemen, if you wish to pursue the matter, file a written motion and file a written response on the matter.

MR. HAGGERTY: All right, we shall file such, Your Honor.

THE COURT: All right. Are we ready to have the jury return? Likewise the government on any motion to quash the subpoena, the government will file a written--

MR. NEAL: (Interposing) Excuse me, with respect to the subpoena of Mr. Silets, we are not going to move, we are getting those ready as quickly as possible and we will ask at this time signed, itemized document by document, we will turn those over to Mr. Silets. We will not move to quash that. I have been served with subpoena and we will in part move to quash and in part answer. This was given to me approximately about five or ten minutes ago and I haven't had time to read it over.

MR. SILETS: Not by the Defendant Dorfman?

MR. NEAL: No, given to me by Mr. Bufalino. I assume it is from the Defendant Hoffa.

MR. HAGGERTY: May I suggest that it seriously impairs the presentation of the defense if the government does not respond promptly to subpoenaes and promptly to

motions by way of replies. It seriously impairs our presentation of the defendants then case. Therefore, I ask the Court to instruct the government to forthwith answer these things. Motions. And subpoenaes. I think we are entitled to that at this stage in the proceeding.

THE COURT: All right. Let's answer matters promptly.

MR. NEAL: May it please the Court, I have been advised the next witness is Mr. Daniels. It would appear to me that a voir dire out of the presence of the jury would be appropriate.

MR. HAGGERTY: I might say that Mr. Neal has been served with a subpoena to produce these things that I speak of. Now I think we are entitled to an answer to that subpoena.

THE COURT: Subpoena on what, Mr. Haggerty?

MR. HAGGERTY: Subpoena on these instrumentalities, these reports of surveillance. And then on my information they are in Mr. Neal's office now.

MR. NEAL: May it please the Court, I was served with a long subpoena. If they have a copy I would like for the Court to see it. About ten minutes ago. Maybe even five minutes ago. I was in the middle of other matters. I haven't even had time to read this long subpoena, I believe it is a subpoena with two legal size pages attached, I haven't

had time to even read it. Much less respond to it.

THE COURT: All right, make some--

MR. BERKE: (Interposing) If Your Honor please, with respect to a subpoena we file written motions, we have two such motions here now and serve the government and the original here for the Court.

THE COURT: The matter Mr. Haggerty is referring to, make such response to the Court by the beginning of court tomorrow.

MR. NEAL: Yes, Your Honor.

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Tk 21 fol.

MR. HAGGERTY: Might we add to that the response to the motions filed as well by tomorrow morning?

THE COURT: The motions you are referring to, are these motions that are just being filed?

MR. HAGGERTY: Yes, the motion I filed this forenoon and the motion that has just been filed now.

THE COURT: Well, the Court hasn't had an opportunity to see them but the government will respond by tomorrow or advise the Court as to why they have not had time to respond.

MR. SILETS: Your Honor, may I interject at this moment? I have just noticed in the courtroom Mr. Carl Schultz, who left at my request. Mr. Schultz has been under subpoena and we do still have in effect the exclusion of witnesses.

May I inquire if there are any other witnesses in the courtroom, any persons under subpoena who have been present while we have been proceeding here?

THE COURT: Mr. who, Schultz?

MR. SILETS: Carl Schultz, I believe he had been subpoenaed on a motion to suppress, which the Court has taken under advisement, directed that after the case has been completed on its proof that that motion would be taken for hearing.

THE COURT: Well, any witnesses in the courtroom

will remain outside of the courtroom.

All right.

MR. NEAL: We have suggested voir dire out of the presence of the jury with respect to this Mr. Daniels, your Honor.

THE COURT: All right.

MR. NEAL: I have interviewed Mr. Daniels, I can't see any relevant testimony it would have with respect to this matter.

THE COURT: Have Mr. Daniels brought in.

MR. DALE: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. DANIELS: I do.

MR. DALE: You may have a seat, sir.

MR. SILETS: If your Honor please, the Court is ruling that I am not to interrogate the witness before the jury?

THE COURT: Well, it has been asked that the line of inquiry be subjected hereto for voir dire in the absence of the jury. Let's see what we are talking about.

MR. SILETS: May I inquire of the government the basis for this request? I mean, am I not allowed to proceed with my evidence on my defenses as I see fit unless the

government has some cause or shows some cause?

THE COURT: All right. What is it?

MR. NEAL: Yes, your Honor, this I presume is in regard to some information with respect to alleged wire tapping. I have talked to Mr. Daniels, I am stating to the Court that he has told me what he knows, I assume, I am sure he is honest and--

THE COURT: (Interposing) What is the general purpose or line of questioning?

MR. SILETS: Your Honor, Mr. Dorfman has been confronted with only two witnesses who have any direct testimony against him, one is Hazel Fulton, who admitted perjury on the witness stand, the other is Mr. Partin.

MR. NEAL: Mrs. Fulton did not admit perjury on the stand.

MR. SILETS: She admitted perjury before the grand jury. A horse of one color is a horse of another color as far as I am concerned and the other witness was Mr. Partin and Mr. Partin gave direct evidence against Mr. Dorfman and he testified at length about his being in conversation with Mr. Daniels and telephone calls he initiated to Mr. Hoffa which led ultimately to his coming to Nashville and ultimately was the basis for his having these reputed conversations with Mr. Dorfman and I would like to lay the foundation to impeach that testimony, to show that these conversations never

happened or, in the alternative, that if they did happen that perhaps they were done with an intent to entrap Mr. Dorfman or to lead him into a situation which is untenable to him or to put him into a position whereby the circumstances could be such that it would be prejudicial to him.

MR. HAGGERTY: I think the witness should be excluded, may it please the Court, during this argument.

THE COURT: All right.

(Thereupon, Mr. Daniels was excluded from the courtroom.)

MR. HAGGERTY: Now, may it please the Court, this is the situation that confronts us at this time, the defense is putting on its defense, we have subpoenaed Mr. Daniels as our witness, we are, under the rules of evidence, can only conduct direct examination of Mr. Daniels unless he is declared hostile by the Court on motion.

Therefore, I say to your Honor there is no basis for a voir dire at this time. Any questions asked should be asked in the presence of the jury.

If Mr. Neal has a valid objection he should make it and the Court will sustain him; therefore, I say that a voir dire at this time is highly improper and prejudicial to the defendants.

THE COURT: All right, all right. Well, let's have the witness come in and have the jury come in and let's

proceed.

MR. NEAL: If it please the Court, may Mr. Silets be instructed not to get into the matter that we discussed?

MR. SILETS: What matter?

THE COURT: Just hold the jury just a moment.

MR. NEAL: The matter we took up in chambers.

MR. SILETS: I haven't participated in any conference in chambers. I don't know what this is all about.

MR. NEAL: I believe you did.

MR. SILETS: Oh, that. Oh, I understand, yes, oh, yes.

THE COURT: Proceed to have the witness and the jury come in.

(Thereupon, the Witness Daniels returned to the witness stand.)

(Thereupon, the jury of 12 and 4 alternates returned into open court and the following further proceedings were had, to-wit:)

WILLIAM HAWK DANIELS,

a witness called at the instance of the Defendant Dorfman, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. SILETS:

Q Will you state your name, sir?

A William Hawk Daniels.

Q What is your occupation, Mr. Daniels?

A I am an attorney in Louisiana, I am the administrative assistant to the Honorable Sergeant Pitcher, District Attorney, Nineteenth Judicial District.

Q And is that in the City of Baton Rouge?

A Yes, sir.

Q How long have you been an employee of the State of Louisiana?

A Three years and three months.

Q And what are your duties in that employment, Mr. Daniels?

A I do legal research, I coordinate investigations, supervise them, conduct the investigations and I am generally in charge of the files and the stenographic personnel.

Q Are you acquainted with a Mr. Frank Grimsley, a United States Government Attorney?

A I am.

End Tk 21
Tk 22 fls.

Q How long have you been acquainted with Mr. Grimsley?

A Since approximately about October 2, 1962.

Q And are you acquainted with Edward G. Partin?

A I am.

Q How did you meet Mr. Partin?

A I first met Mr. Partin on May 30 or May 31, 1961, when he paid a call at my place of business, a commercial establishment, in Baton Rouge.

Q And did you meet him thereafter from time to time?

A I saw him on subsequent occasions, yes, sir.

Q Did you have occasion to meet him in the course of your official capacity as an assistant to the District Attorney?

A Yes, sir, on the occasion of the first meeting it was in connection with my official duties.

Q On may 30, 1961?

A Yes, sir.

Q Can you relate that to us?

MR. NEAL: Objection, your Honor.

THE COURT: Sustained.

BY MR. SILETS:

Q Now when was the next time you met him?

A I couldn't remember that with any particularity,

sir, but it was during 1961 and intimately in 1962.

Q On each of those occasions with respect, he was meeting you with respect to your official duties as a member of the District Attorney's office?

A Yes, sir.

Q Now, directing your attention to the year 1962, can you specify any meeting that you recall with Mr. Partin in that year?

A Yes, sir, I can specify some of the meetings I had with him.

Q Well, will you relate those, please?

A During the course of an investigation into alleged criminal activities in our parish, I had occasion to interview Mr. Partin. I more frequently saw him beginning in September 1962 and thereafter.

Q Was Mr. Partin a subject of your criminal investigation?

MR. NEAL: Objection, your Honor.

MR. HOOKER: Objection, your Honor.

THE COURT: Sustain the objection.

BY MR. SILETS:

Q All right, Mr. Daniels, you say you began to see him more frequently in September, 1962, can you tell us what the purpose of your seeing him frequently in that month was?

MR. HOOKER: We object to that.

THE COURT: Sustain the objection.

BY MR. SILETS:

Q How often did you see him in September 1962?

A Several times. Two or more, Mr. Silets.

Q And were those times two or more times in September pursuant to your official duties?

A Yes, sir.

Q Now, did you see him also in the month of October?

A Yes, sir.

Q 1962?

A Yes, sir.

Q Now, Mr. Daniels, in particular were any of the meetings in the month of October or September 1962 in any way related to the defendant Mr. Hoffa or any other defendant in this case?

A Mr. Silets, I don't know if I understand the question. Do you mean related to Mr. Hoffa and others as defendants in this case?

Q No. The individuals either Mr. Hoffa, or Mr. Dorfman, or any of the other defendants as individuals?

MR. HOOKER: We object to that, your Honor, unless related to this case.

THE COURT: Sustained.

MR. SILETS: Well, your Honor, there is very

little you can do to disassociate the individuals from this case. I will rephrase the question.

THE COURT: All right. Rephrase the question.

BY MR. SILETS:

Q Mr. Daniels, now you have said that in September and October you had spoken to Mr. Partin as part of your official duties?

A Yes.

Q Now, at any time during your conversations or your meetings with him were the names of any of the defendants in this case mentioned to you?

A Yes, sir.

Q Now, when was the first such meeting?

A It would have been the 27th, 28th, or 29th of September, 1962.

Q Now, can you tell us whether Mr. Partin called you or you called Mr. Partin?

A Mr. Partin was the one who called for the meeting.

Q He initiated the meeting?

A Yes, sir.

Q And that was to the best of your recollection on the 27th, 28th, or 29th of September, 1962?

A Yes, sir.

Q Is that correct?

A Yes, sir.

Q Now, tell us of the first meeting that you had pursuant to the initiation by Mr. Partin, when was that? Or, excuse me, you have said the 27th. Where was it?

A In Baton Rouge, Louisiana.

Q Who else was present?

A My first meeting with him was alone.

Q Where was it, sir?

A This was in the East Baton Rouge parish jail in the office of the warden.

Q Was he incarcerated at the time?

MR. NEAL: Objection, your Honor.

THE COURT: Sustained.

BY MR. SILETS:

Q All right, you met him in the office of the jail and who else was present?

A No one was present during the meeting.

Q And how long did that meeting take place?

A I have no distinct recollection, 15 to 30 minutes.

Q And on that occasion did the name of any of the defendants in this case come up in the conversation?

A Not to my recollection.

Q Well, when was the next time you met with Mr. Partin?

A The next day or evening.

Q Was that also in the jail?

A No, sir.

Q Where was that, sir?

A In the office of the District Attorney in the courthouse at Baton Rouge.

Q Do you have any knowledge how Mr. Partin was able to leave the jail and go to the courthouse?

MR. NEAL: Objection, your Honor.

THE COURT: Sustain the objection.

BY MR. SILETS:

Q Who else was present, Mr. Daniels?

MR. BERKE: Just one minute, if your Honor please, in behalf of Mr. Hoffa we think that is very material, if your Honor please, as to where Mr. Partin was and the circumstances under which this arrangement was gotten by even though Mr. Silets is not pressing for it, we think that that is a material matter. In other words, the circumstances, the pressures, and everything that the Court has heretofore held to be inadmissible, we think would be admissible now.

THE COURT: Overrule the objection.

BY MR. SILETS:

Q On the 27th you met him in the jailhouse and next day you met him in the office of the District Attorney?

A I didn't say that, Mr. Silets. I didn't specify the exact date. The 27th or 28th, 29th, and I met him then a day subsequent.

Q Day subsequent to your first meeting you met him in the office of the District Attorney?

A Yes, sir.

Q Now, was that pursuant to the conversation that you had on the preceding day? In other words, was the succeeding meeting arranged at the time you met with him in the jailhouse?

A No, sir, not with specificity. I did tell him that I would speak to him at the next opportunity. And try to arrange for a meeting at which would be present my superior, Mr. Pitcher.

Q Now, in fact, that was the meeting on the next day in Mr. Pitcher's office, is that right?

A Yes, sir.

Q Now, who else was present?

A Mr. Pitcher was present being in and out of the office.

End 22
23 fls

Q Anyone else?

A No, sir.

Q Now, at any time from the first conversation that you had with Mr. Partin in the jail house until the time you met with him in the courthouse in Mr. Pitcher's office, did you communicate with any government agents, that is, federal government agents?

A Mr. Silets, I don't think that I communicated with the government agents. I have no distinct recollection of being the one who communicated with government agents.

Q Well, to your knowledge did any member of the District Attorney's staff or any employee of the State of Louisiana so communicate with a federal government agent?

A Yes, sir, Mr. Pitcher contacted by telephone Mr. Peter Duffey, the assistant U. S. District Attorney in New Orleans.

Q Now, in the terms of time sequence when did that occur, was it following your meeting with Mr. Partin in the jailhouse?

A I would say approximately October the 1st, 1962.

Q October the 1st. Would that be subsequent, to the best of your recollection, of your meeting with Mr. Partin in the courthouse?

A Yes, sir.

Q All right. Getting back to your meeting with Mr.

Partin the ccurthouse, was anyone else besides yourself and Mr. Partin and occasionally Mr. or District Attorney Pitcher in and out, was anyone else present?

A Not to my recollection.

Q How long did you converse with him at that time?

A An hour or more.

Q At that time was the name of any of the defendants in this case mentioned?

A Yes, sir.

Q Which name?

A Mr. Hoffa's.

Q That is the Defendant James R. Hoffa?

A It was my understanding.

Q Now, pursuant to that conversation, where Mr. Hoffa's name was mentioned, did you meet again with Mr. Partin?

A Yes, sir.

Q And when was the next meeting that you had?

A Approximately October the 2nd, 1962.

Q Now, in terms of time sequence following this second meeting in the courthouse, your superior, Mr. Pitcher, in fact, contacted the United States Attorney for that district of Louisiana, Mr. Peter Duffy?

A Yes, sir.

Q Are you aware of what information he passed to

Mr. Duffey?

A Yes, sir.

Q Was that the same information you had obtained from your conversations with Mr. Partin?

A In substance it was.

Q Now, without disclosing the substance of that information did it relate to the subject matter of this lawsuit?

A No, sir, it affected or concerned other persons not a party to this lawsuit and in no way relates to this proceeding here.

Q Except for the mention of Mr. Hoffa's name.

A With that sole exception.

Q All right. Now, after this contact with the United States Attorney, Mr. Duffy, on October 1st, you say there was another meeting with Mr. Partin on October 2nd.

A Approximately October 2nd, it might have extended into the morning of October the 3rd, 1962.

Q Well, is it your testimony that that occurred in the late evening?

A To the best of my recollection it was in the early morning between, say, one a. m. and five a. m.

Q So that would be one a. m. of the second or one a. m. of the third.

A Probably the second, possibly the third--, no

later than the third of October, 1962,

Q Now, who else was present at that meeting?

A Mr. Frank Grimsley, Mr. Peter Duffy, Mr. Sergeant Pitcher and myself.

Q And where did that meeting take place?

A In the office of Sergeant Pitcher.

Q In the courthouse?

A Yes, sir.

Q Now, can you, do you know how Mr. Grimsley happened to be at that meeting?

A No, sir, I do not.

Q At that meeting was the name of any defendant in this lawsuit mentiomed?

A I think there were, Mr. Silets, and I would like to explain my answer at this point.

Q Please do.

A I think that the name of Mr. Hoffa was mentioned, I cannot be more specific because of the time involved. I did not have an opportunity to review the files in the office of the District Attorney to determine exactly who was mentioned.

Q Well, to the best of your recollection how long did the meeting take to complete?

A Approximately three hours.

Q Well, during that time were notes taken by anybody?

A Not to my knowledge, certainly not by me.

Q Did you observe whether Mr. Grimsley took any notes of the conversation?

A I don't remember Mr. Grimsley taking any notes at all.

Q Now, getting back to my original question, though, Mr. Daniels, do you recall or do you know or were you advised how Mr. Grimsley happened to attend this meeting?

A No, sir. I knew Mr. Duffy, having met him before in New Orleans, and either Mr. Duffy referred to Mr. Grimsley as a Department of Justice official or I inferred it because he was there with the Assistant U. S. D. A.

Q Well, to the best of your knowledge, however, Mr. Grimsley is an official of the Department of Justice, is that correct?

A I have learned that subsequently, yes, sir.

Q And at this particular meeting on October 2nd in the courthouse for these three hours, did Mr. Grimsley inquire of Mr. Partin, ask questions, obtain answers, and so on?

A Mr. Grimsley did very little questioning or made very few comments and Mr. Duffy made even fewer, the questioning was done principally by Mr. Pitcher and myself.

Q And it's your testimony in the course of this questioning the name of James R. Hoffa was brought up.

A To the best of my recollection.

Q Yes, sir. Now, when was the next time, if ever, you met with Mr. Partin?

A I don't remember the exact date but it would have been shortly thereafter, certainly no later than October the 6th, 1962.

Q Now, where did that meeting take place, sir?

A At the Holiday Inn Motel in Baton Rouge, Louisiana.

Q Now, Mr. Daniels, before we proceed, how many times did you meet with Mr. Partin at the Holiday Inn Motel all told?

A At least two, two separate occasions and probably more often.

Q Now, sir, Mr. Daniels, you have filed an affidavit in this action supporting a document filed on behalf of the government and in that affidavit you had stated that you met on two occasions with Mr. Partin, October 8th and October 18, at the Holiday Inn Motel.

Now, in addition to those two meetings your testimony is now that you met on October 6th.

A Yes, sir.

Q Who else was present then on October 6th?

A No one.

Q And how long did you meet with Mr. Partin?

A Intermitently for four days.

Q Were you residing at the motel with him?

A No, I was residing there alone but at the same time.

Q Is your residence at that motel?

A No, sir.

Q Can you tell the jury the purpose of your staying at the motel?

MR.NEAL: Well, Your Honor, we object to this as being irrelevant, hasn't been made relevant to this lawsuit. Mr. Daniels is an official of the state of Louisiana.

End 23

Tk 24 fol.

THE COURT: Sustain the objection.

BY MR. SILETS:

Q Well, Mr. Daniels, let me ask you this, was your staying at the motel and the staying at the motel by Mr. Partin pursuant to some understanding reached between you and he?

A Some other outstanding--

Q (Interposing) No, some understanding, was it pursuant to an agreement?

A Yes, sir.

Q And to your knowledge did Mr. Partin register at the motel?

A I think he did, sir.

Q And did you register at the motel?

A I think I did.

Q Now, all told, I guess, from your testimony, you stayed for a period of four days, were they successive days?

A I think they were.

Q How long did Mr. Partin stay at the motel?

A I couldn't answer that question, Mr. Silets. I do know that he was there during the time of my stay and I do know that he was there on the 18th of October, 1962. I meant by that if he were absent, in the interim, I wouldn't have known.

Q Now, did you and he share the same room?

A No, sir.

Q Did you register in the motel in your own name?

A I don't recollect registering in the motel. Frequently I have been the guest of many of the motels in Baton Rouge. They have permitted me the use of rooms when I was conducting official investigations.

Q You were there then those four days on an official investigation?

A Yes, sir.

Q Now, did Mr. Partin register in his own name?

A I don't think he did, sir.

Q In whose name did he register?

MR. HOOKER: We object to that.

THE COURT: Sustain the objection.

BY MR. SILETS:

Q All right. Your testimony is that he did not register in his own name, correct?

A I don't recollect with certainty, Mr. Silets.

Q Do you know who paid his hotel bill?

MR. NEAL: Objection, your Honor.

THE COURT: Overruled.

THE WITNESS: I don't think that bill has ever been paid.

BY MR. SILETS:

Q Did you pay for your hotel accommodations?

A Yes, sir.

Q You did pay?

A I did.

Q But you did not register?

A I don't remember that particular point for the reasons that I mentioned in some instances I did register. In other instances I have not been a registered--I have not been registered but I have been a guest of the motel.

Q Now, you came into the motel then on October 6th and you stayed through October 10th, is that your testimony?

A Approximately.

Q And through those four days from time to time you had opportunity to speak to Mr. Partin?

A Yes, sir.

Q And could you tell us approximately how much time you spent with him each day?

A No, sir, Mr. Partin was in in the early mornings. He left some time after nine o'clock, returned--

Q (Interposing) In the evening? Nine o'clock in the evening?

A In the mornings. Returned at different hours during the day.

Q On those occasions, however, when he did return, he conversed with you?

A Yes, sir.

Q Now, during those conversations was the name of any of the defendants in this case mentioned to you?

A Yes, sir.

Q Which defendant?

A Mr. Hoffa.

Q Now, on any of those four days when you stayed at the motel, did you meet with Mr. Partin and other individuals? And, if so, state the first such occasion.

A I do not remember meeting with anyone but Mr. Partin on those occasions.

Q Now, I direct your attention--

A (Interposing) To October 8, 1962.

Q Do you recall Mr. Partin phoning Mr. James R. Hoffa?

A I do.

Q And he placed the call, did he, to Mr. Hoffa?

A Yes, sir.

Q Was that pursuant to some understanding between yourself and Mr. Partin?

A I wouldn't say that it was pursuant to an understanding. He had long before given me to understand that he had to contact Mr. Hoffa.

Q Sir?

A That he had to telephone Mr. Hoffa when he was able to and at a phone that he felt that he could use without

being overheard by a bunch of other people.

Q Now, did you in fact personally overhear Mr. Partin's conversation?

A Yes, sir.

Q Now, at any time during the course of this conversation was any recording device used or attached to the telephone?

A There was.

Q Now, whose recording device was that?

A One belonging to the office of the District Attorney.

Q And did you furnish that to Mr. Partin?

A I did.

Q Do you have it with you?

A I do not know if I have the exact one.

Q Do you have a similar device with you?

A Yes, sir.

Q May we see it, sir?

MR. NEAL: Your Honor, is this a matter relevant to the issues in this case?

MR. SILETS: Certainly is. Couldn't be more relevant.

MR. NEAL: May I inquire just one moment here? Then it seems to be that we should maybe excuse the jury on this matter. May I inquire just two questions?

THE COURT: All right.

BY MR. NEAL:

Q Mr. Daniels, did the Federal Government have anything to do with this?

MR. BRANSTETTER: May it please the Court, government counsel--

MR. SILETS: (Interposing) If Mr. Neal will wait I will try to elicit as much information as the jury should have before it.

MR. NEAL: May it please the Court, I'm entitled to go into this.

THE COURT: All right, I will permit you to ask him.

EXAMINATION BY MR. NEAL:

Q Did the Federal Government have anything to do with this?

A No, sir.

MR. BRANSTETTER: May it please the Court, I would like to object.

MR. NEAL: Your Honor--

MR. BRANSTETTER: (Interposing) May I object, may it please the Court, under the Benanti case it makes no difference insofar as the relevancy of this testimony is concerned whether or not the Federal Government was cooperating at that particular time or not, and I think counsel knows it.

Makes no difference whatsoever.

MR. NEAL: This is purely a legal matter, your Honor.

THE COURT: All right. Ladies and gentlemen, step out.

MR. SILETS: May the witness be excused?

MR. NEAL: No, we want to question him.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom, and in their absence, the following proceedings were had, to-wit:)

THE COURT: All right, you may proceed.

VOIR DIRE EXAMINATION BY MR. NEAL:

Q I would like to question this man. This testimony is not testimony for the jury. It is obviously not testimony. They are trying to have a hearing here on a little wire tapping now under the guise of material and relevant to this case.

MR. SILETS: Your Honor, if we are going to argue this I'd just as soon Mr. Daniels stepped out. Only three steps. I would like to be heard on this proposition.

THE COURT: All right.

(Thereupon, the Witness Daniels was excluded from the courtroom.)

MR. SILETS: Your Honor, this is extremely material and relevant to the case because the theory of the

defense is that all of this activity by Mr. Partin was a put-up job and initiated by the government and so far we have elicited from Mr. Daniels the fact that he did have conversations with the local district attorney. The inference from which the jury can draw is that he was excused from the jail house. That is the reason that he did all these things was for the government's purpose and we will show through his testimony that after this set-up phone call of Mr. Daniels furnished the tape recordings to the government.

End Tk 24
Tk 25 fls.

And Mr. Partin in the course of the government's case has stated that he had actually spoken to Mr. Hoffa. This is very pertinent and relevant to his own testimony.

Now, here is a man who said he heard that conversation. I think we are entitled to elicit this information and if, incidentally, it turns out that the government has violated some law or the evidence is illegally obtained, well, then that is for the Court to decide but the issues of his testimony at the moment and the primary issue of his testimony is extremely relevant to the direct testimony of Mr. Partin and to the theory of the defense and your Honor knows from all of the cases that the jury is entitled when we get to the point of instructions the jury is entitled to an instruction on what our theory of the defense is and in the course of our case we are entitled to elicit and prove the theory of our defense.

THE COURT: All right. Anything further?

MR. SILETS: My attention is called to this fact, also, your Honor, I believe I myself inquired of Mr. Partin whether he had ever used a recording device or an eavesdropping device and he answered no. Now, if in fact, as we are now developing that the answer is yes, this is enough to destroy the credibility of Mr. Partin.

MR. NEAL: Your Honor, if they will read the pages they have cited they will see that is entirely in error.

MR. SILETS: Your Honor, I have tried to find those pages that Mr. Neal has cited, and they sure don't work out to be in this transcript. He has got a session of February 10th, 1964, page 2041. I couldn't find those, I looked for those that he cited in his brief. Take a look at that.

THE COURT: All right. Anything further? If not, let's have the witness come back and have the jury come back.

WILLIAM HAWK DANIELS,

a witness called at the instance of the Defendant Dorfman, having previously been duly sworn, was recalled and testified further as follows:

MR. SILETS: Is the jury going to be brought back?

THE COURT: Yes.

MR. NEAL: May I ask the Court to advise Mr. Silets this is his witness and he is leading. I don't want to be objecting but we should not have leading questions, your Honor.

THE COURT: All right.

(Thereupon, the jury of 12 and 4 alternates returned into open court and the following further proceedings were had and evidence introduced, to-wit:)

THE COURT: Proceed.

MR. SILETS: Thank you, your Honor.

FURTHER DIRECT EXAMINATION

BY MR. SILETS:

Q Now, Mr. Daniels, the last we were discussing was the recording device that was attached to the telephone and during the conversation that Mr. Partin had with Mr. Hoffa on October 8th, 1962. You were going to display a similar such device. Do you have that with you?

A Yes, sir.

Q Will you, please? Mr. Marshal, will you step back so the jury can see this?

May I approach the bench, your Honor?

THE COURT: All right.

BY MR. SILETS:

Q Now, Mr. Daniels, this large gray box, approximately 6 inches by 10 inches, is what, sir?

A It is an IBM battery-operated recorder.

Q And that is an interference-free recorder, is it not?

A Yes, sir.

Q Now, you have attached to it another device which is on a length of wire, is that correct?

A Yes, sir.

Q And at the end of that wire is what, sir?

A A suction cup.

Q Now, what is the purpose of this suction cup?

A This is to hold an induction microphone over the voice coil of the hand set of a telephone.

Q And what is accomplished when that is placed over the voice portion of the hand set?

A There is generally a high-fidelity recording of both conversations, the local one and the distant one.

Q Both the speaker in the distance as well as the man holding the hand set himself?

A Yes, sir.

Q Now, in this particular instance on October 8th, 1962, was this induction or suction cup attached to the hand set at the time Mr. Partin was speaking to Mr. Hoffa?

A It was.

Q And was it so attached to the voice portion of the hand set?

A It was.

Q And was the gray box or one similar to it that you have in front of you operating so that the conversation was recorded?

A It was.

Q And was a tape made of that conversation?

A Yes, sir.

Q And what, if anything, happened to that tape after the conversation was completed?

A It was removed from the machine by myself and

tabbed with the date and time and the place, the person calling, the person called.

Q Now, prior to the moment that Mr. Partin made this call, you had an agreement with him to use this device on the call at the time he had the conversation with Mr. Hoffa, is that correct?

A The agreement was considerably antecedent by a day or more.

Q Oh. When was the agreement consummated?

A Probably on the 6th of October.

Q On the 6th of October then you and Mr. Partin agreed that the conversation that he was going to make or the call he was going to make with Mr. Hoffa would be tape recorded by the use of this device?

A Mr. Hoffa included with any others that he might make, I don't remember that we specifically limited the agreement or that the agreement was struck or perfected on the basis of a telephone call being made to Mr. Hoffa.

Q Did you in fact record other phone calls?

A I recorded none, Mr. Silets.

Q Just the one?

A No, sir.

Q Just --

A (Interposing) I recorded no telephone calls. I did not.

Q You mean the machine did?

A I did not. I didn't mean it to be facetious, sir. I did not operate the machine so as to cause it to record any conversation.

Q However, it was your machine?

A Yes, sir.

Q And you attached the suction cup to the hand set?

A No, sir.

Q Who did that?

A Mr. Partin.

Q And that was pursuant to your understanding of October 6th?

A Yes, sir.

Q Was there a particular reason why Mr. Partin attached this, your device to the hand set rather than you?

A Yes, sir.

Q What was that reason?

A The status of a federal law, in particular Section 605 of the Federal Communications Act is, shall we say, somewhat in a hiatus, I don't know that anyone is capable of determining when a tap of a telephone conversation is legal or illegal.

Q And you and Mr. Partin both considered this as a tap of this phone call?

A I do not consider it as a tap, I don't know what

Mr. Partin may have considered it as. I understand the word tap, it is a surreptitious interception by a mechanical device of telephone conversations without the knowledge of the sender, the literal language of 605 says, "Without the permission of the sender."

Q That is for the Judge to decide.

MR. NEAL: Just a moment, now, just a moment, your Honor. I understand that this was done with the permission of the sender and I think the Court should, the jury should be instructed that it is not illegal.

MR. SILETS: If your Honor please --

THE COURT: (Interposing) Proceed.

BY MR. SILETS:

Q Now, Mr. Daniels, who loaded the machine with the tape?

A I probably did initially.

Q And who unloaded the machine when the conversation was completed?

A I don't remember. May I explain that answer? Prior to Mr. Hoffa's conversation being recorded, numerous other calls had been recorded during the period of which Mr. Partin operated the machine, removed the tapes, placed fresh tapes. Some of these recordings were done when I was out of the room so I couldn't answer you more -- with more particularity, Mr. Silets.

End 25
26 fls

Q It is true, however, those tapes were the official property of the state of Louisiana, they were purchased with funds from the state of Louisiana, is that right?

A Yes, sir.

Q And retained by the state of Louisiana after the recordings were made?

A Yes, sir.

Q Now, was this recording device attached to the telephone throughout the conversation with Mr. Hoffa?

A Yes, sir.

Q Now will you tell the jury what Mr. Partin said to Mr. Hoffa when he told him that there wasn't a device attached to the phone? Tell what Mr. Partin said to Mr. Hoffa when he told him the device was attached to the telephone?

THE REPORTER: Sorry, I didn't get your question. Was?

BY MR. SILETS:

Q Tell what Mr. Partin said to Mr. Hoffa when he told him the device was attached to the telephone.

A Mr. Partin did not tell Mr. Hoffa that the device was attached to the telephone.

Q Oh, he never told him that the device was attached?

A No, sir.

Q Now, does this device cause an audible signal to

be interjected into the conversation so that the other party to the conversation is aware that his conversation is being recorded?

A No, sir.

Q No signal whatsoever?

A None.

Q And except for the fact that Mr. Partin would have told him, Mr. Hoffa would have no way of knowing that the conversation was being recorded?

A No, sir.

Q And in fact he did not tell him?

A In fact he did not tell him.

Q Now, when the tape of this telephone conversation was removed from this tape recorder what happened to the tape, if anything?

A I feel reasonably sure that I played that tape to Mr. Pitcher.

Q And to your knowledge do you know what he did with the tape?

A Yes, I do.

Q Will you tell the jury what he did?

A The tape was played to Mr. Grimsley and possibly Mr. Peter Duffy. A copy of it was made and given to those two gentlemen, just which one I do not remember.

Q Now, was that recording and playing done in your

presence?

A Yes, sir.

Q Now, at the time did Mr. Grimsley or Mr. Duffy take notes?

A No, sir, not to my recollection.

Q Do you have the original of the tape recording?

A Which one, Mr. Silets?

Q The one we are speaking of right now, October 8th.

A October 8th, yes, sir.

Q And you have it in your possession?

A Yes, sir.

Q And a copy was furnished to the federal government?

A Yes, sir.

Q And when was a copy furnished to Mr. Hoffa?

A I don't recollect that our office furnished Mr. Hoffa with a copy.

Q And isn't it true that the federal government never furnished a copy to Mr. Hoffa to your knowledge?

A I would have no knowledge of that.

Q Now, following this conversation of October 8, the telephone conversation with Mr. Hoffa, you had occasion to confer with Mr. Partin again?

A Yes, sir.

Q And was that--, can you fix that in terms of

the date upon which the federal government was furnished with this tape recording?

A I would say no later than the 10th of October.

Q Well, let's clear the record, Mr. Daniels, when was the federal government furnished this recording?

A I cannot answer that with particularity.

Q Well, to the best of your recollection.

A No later than the 10th of October, 1962.

Q And as a result of that--, did you have a meeting at that time when the tapes were delivered?

A Yes, sir, I think there was a meeting.

Q And where was that meeting held?

A Again, in Mr. Pitcher's office.

Q Was Mr. Partin present?

A No, sir.

Q Who was present, Mr. Daniels?

A Mr. Duffy or Mr. Grimsley.

Q Yourself and Mr. Pitcher?

A Myself and Mr. Pitcher. I do not remember with clarity whether it was Mr. Duffy or Mr. Grimsley.

Q Now, at that time was the name of any defendant in this lawsuit mentioned?

A Yes, sir.

Q And whose name?

A Mr. Hoffa's.

Q Now, on this meeting on this occasion of the meeting on October 10, 1962 was there some agreement or plan with respect to future action as to Mr. Hoffa and Mr. Partin?

A Not relating to this case.

Q There was some agreement, however?

A There was a discussion. It was not an agreement.

Q There was discussion but not an agreement?

A Not an agreement per se.

Q Just to backtrack for a moment, Mr. Daniels, would you again precisely tell us where this induction coil was on the hand set? I'm not sure I remember.

A It was on the receiver end.

Q I thought you said it was on the speaking end.

A No, it was on the coil. This is the coil that takes the electrical impulse and conveys it within the audio limits.

Q Do you mean when the set is held this way so that one portion is in front of the mouth and the other is at the ear, where would the coil, induction coil be placed?

A Near the ear piece.

Q Near the ear piece?

A Yes.

Q Now, on this occasion of October 10th you say there was no formal agreement but there was some understanding of

future action, is that right?

A I don't remember, I don't recollect that future action was formulated. I know that no specific plans were under discussion. I know that the matters then discussed in no way relate to this case.

Q Mr. Daniels, was Mr. Partin then informed that the federal government was furnished this tape recording?

A I don't believe he was, Mr. Silets.

Q Now, when was the next time if ever after the 10th of October that you spoke to Mr. Partin?

A Certainly no later than October 18, 1962.

Q Between the 10th and the 18th you had no occasion to speak to him?

A I don't remember.

Q Did you have an occasion to speak to any member of the Department of Justice or the federal government concerning these matters between the 10th and the 18th?

A Again I don't remember. I would not preclude it or foreclose by my statement that conversations might not have taken place.

Q Now, to your knowledge did your superior, Mr. Pitcher, have conversations concerning these matters with the Department of Justice?

A Mr. Silets, I couldn't speak with any certainty there, but had there been conversations between Mr. Pitcher

and members of the federal government I would have been apprised of them.

Q Now, Mr. Daniels, what if anything, occurred on October 18?

A Again Mr. Partin placed a telephone call to Mr. Hoffa amongst other telephone calls that he made on that day, the day prior, and the day subsequent.

Q And where did that phone call take place?

A That phone call, to the best of my recollection, took place in the Holiday Inn Motel.

Q Now, were you present during the course of that conversation with Mr. Hoffa on the 18th of October?

A Yes, sir.

Q And was anyone else present?

A I don't remember anyone being present outside of Mr. Partin and myself.

Q Were you present during the time that Mr. Partin made the other phone conversations on the day preceding the 18th and the day following the 18th?

A On some occasions I was. On other occasions I was not.

Q But you were in fact present while he was speaking to Mr. Hoffa on the 18th?

A Yes, sir.

Q Now on that occasion did Mr. Hoffa call him or

did he call Mr. Hoffa?

A Mr. Partin called Mr. Hoffa.

Q And at the time he placed the call, was this device which you have in front of you in operation?

A Yes, sir.

Q And again with the tapes furnished by your office?

A That is correct.

Q And on your recording device?

A Yes, sir.

Q Now, was this suction cup or induction coil placed upon the telephone on that occasion?

A Yes, sir.

Q And where was it placed on the telephone?

A On the ear piece.

Q Sorry, sir.

End 26 A Near the ear or receiver.

Tk 27 fol.

Q Was it on the ear piece at the time Mr. Partin picked up the phone and dialed the number?

A Yes, sir, I think it was.

Q And did you fix it to the ear piece?

A I did not.

Q However, it is true that you had originally instructed him in the use of this device, is that not correct?

A Yes, sir, I did.

Q You did, sir?

A I did.

Q Yes. Now, this recording device itself, it--just correct me if I am wrong--it converts electrical impulses picked up by the suction cup into a voice which is recorded on the tape, isn't that the process?

A Yes, sir.

Q Now, at this time of this phone conversation on October 18th, do you know what the number that Mr. Partin dialed was?

A I don't recollect the number, Mr. Silets, it seems to me that it was a Washington number and he failed to reach Mr. Hoffa there, he subsequently placed the telephone call to Newark, New Jersey, where he reached Mr. Hoffa.

Q Now, on this occasion of October 18th, did he, besides the name of Hoffa naturally, and since he was calling Hoffa, was the name of any other defendant in this case

mentioned?

A Not to my recollection.

Q Now, on October 18th had you registered in the motel?

A I don't believe I had.

Q Were you in the motel staying there?

A I don't think I was.

Q Was Mr. Partin staying in the motel?

A I think he was, sir.

Q Did he register?

A I wouldn't know.

Q Now, again were those--was his bill paid or has it been paid?

A I have no way of knowing that.

Q Now, Mr. Daniels, this telephone conversation was overheard by you at the time it was placed by Mr. Partin?

A Yes, sir.

Q And did you have occasion to listen to Mr. Hoffa's portion of the conversation as well?

A Instantaneously with Mr. Partin.

Q How was that accomplished?

A By holding my ear close by the ear piece.

Q And was that with--by consent of Mr. Partin?

A Yes, sir.

Q Was it with the consent of Mr. Hoffa?

A Mr. Hoffa wasn't consulted in the matter.

Q Was Mr. Hoffa informed that this recording device was being used to record the conversation?

A No, sir.

Q Now, Mr. Daniels, following the conclusion of that conversation, what, if anything, did you do with the tape which recorded the conversation?

A Mr. Silets, I am sure that I caused the contents of that tape to be disclosed to a member of the Federal Government, again I cannot particularize who it was, I think it was Mr. Grimsley.

Q Can you tell us when and where that tape was turned over to the Federal Government?

A No, sir, I cannot.

Q Was it on the same day of October 18th?

A I feel sure that it was not, the contents of it was.

Q I am sorry, sir, I didn't understand your answer.

A The tape was not nor reproduction or copy of the tape was not; however, the contents of the conversation, the general nature of the conversation, was conveyed to the Federal Government on the same day.

Q Now, by whom was that conveyed?

A By me.

Q Was Mr. Partin present?

A No, sir.

Q To whom did you convey this information?

A I think it was to Mr. Grimsley.

Q Now, at the time that you conveyed that information to Mr. Grimsley, did he take any notes?

A No, sir.

Q Now, to your knowledge, did Mr. Grimsley--by the way, what time of day was this phone call?

A It was in the morning.

Q Now, had you seen Mr. Grimsley at the motel on that morning?

A I don't recollect seeing Mr. Grimsley at the motel that morning.

Q How did you convey the information to Mr. Grimsley, by phone or in person?

A By telephone and later in person.

Q Did you call him from Mr. Partin's room?

A I don't recollect doing that, Mr. Silets, I feel sure that I called him from our office.

Q And pursuant to your call to him from your office did he come to your office?

A No, sir, he did not.

Q When, if ever, was the tape itself turned over to the Federal Government?

A Mr. Silets, it could have been later in October,

it could have been as late as November when that--

Q (Interposing) In the year 1962?

A Yes, sir.

Q However, the substance of the conversation was conveyed by you to Grimsley on that same day?

A Yes, sir.

Q Now, to your knowledge, do you know that Mr. Grimsley spoke to Mr. Partin on October 18th in the morning?

A Not to my knowledge.

Q Can you tell us approximately the length of the call, the conversation between Mr. Partin and Mr. Hoffa?

A No more than six minutes.

Q Now, who paid the price of that phone call?

A It was a third party billing to Local No. 5 telephone in Baton Rouge.

Q Now, following this occasion of October 18th, 1962, when, if ever, was the next time you spoke to Mr. Partin?

A Approximately the 20th of October, 1962, it might have been the 21st.

Q The 20th or 21st. That would have been Saturday or Sunday, is that right? Can you see that calendar?

A It would have been Saturday or Sunday, the 20th or the 21st.

Q And where did you speak to him?

A I spoke to him on an aircraft bound for Atlanta.

Q How did it happen that you and he were on the same aircraft?

A Mr. Grimsley called me and asked me if I would go to Atlanta on the 20th or the 21st.

Q Did he state the purpose for your going to Atlanta?

A No, sir.

Q Well, were you employed by the Federal Government at the time?

A No, sir.

Q Well, then could you tell us how you happened to go to Atlanta pursuant to the request of the Federal Government while you were an employee of the state?

A Well, Mr. Silets, I don't know that I would be able to come up with something satisfactory.

Q I am not--

A (Interposing) In that respect.

Q I am not asking for something satisfactory, I just want to know the truth.

A Well, I beg your pardon, it was a preface to my answer.

Q I am sorry, sir.

A And I wanted to preface it lest you think I was trying to evade the question.

Q I know you weren't.

A In my business I frequently go to other law

enforcement agents--agencies, either on my own initiative or at their request to discuss matters with them. I don't give it much thought when local agencies call me at home, as they do night after night and ask me to meet with them, I immediately go, it fits in with my job, as I understand it. When the FBI calls me, for example, I go. I generally feel that these people have something that they want to discuss with me and they don't want to stay on the telephone about it.

Q You did this with the consent of your superiors, did you not?

A Yes, sir.

Q And this matter that you were being called to Atlanta by Mr. Grimsley about related to the subject matter of this lawsuit, is that not true?

A Yes, sir.

Q And it was pursuant to the request of the government that Mr. Partin went to Atlanta with you?

A I presume so, Mr. Silets. I would like for you to know that I didn't coordinate my travel to Atlanta with Mr. Partin. We bought separate tickets at separate times, proceeded to the airport in different vehicles, we did not ride together. He was riding first class, I was riding tourist and--

Q (Interposing) Do you know who paid for his travel accommodations?

A I think he did, sir, and I remember at one point he offered, he inquired who was paying mine and when I told him I was he offered to pay me back.

Q Now, you mean it was a sheer coincidence that you were riding on the same airplane?

A No, sir, I didn't mean to convey that.

Q Oh.

A I knew he was going on that aircraft because Mr. Grimsley told me the flight schedule and I booked reservations on that same flight. What I--what I tried to convey to you was that I was not coordinating my movements with Mr. Partin.

End Tk 27
Tk 28 fls.

Q Now, just to again backtrack for a slight moment, you indicated that other conversations were recorded between Mr. Partin and Mr. Hoffa?

A No, sir. I have only alluded to two conversations between Mr. Hoffa and Mr. Partin of which --

Q (Interposing) Those were the only two conversations recorded to your knowledge by Mr. Partin of conversations with Mr. Hoffa?

A To the best of my knowledge.

Q Now, to your knowledge, did Partin record any conversations with any of the other defendants in this lawsuit?

A No, sir.

Q Are you familiar with the names of the defendants in this lawsuit?

A Yes, sir.

Q You are?

A Yes, sir.

Q Now, did Mr. Partin get to keep any of these tape recordings?

A No, sir.

Q Now, you and Mr. Partin had some understanding that these recordings were to be made. Is that correct?

A Yes, sir.

MR. NEAL: That is repetitious, your Honor.

BY MR. SILETS:

Q Now, Mr. Daniels, can you explain why you had such an understanding with Mr. Partin?

A Yes, sir. There were matters not at all related to this trial. They related to matters within the ambit of the jurisdiction of the District Attorney in Baton Rouge, Louisiana.

Q Now, sir, however, you have testified that the conversation of October 18th which was recorded did in fact relate to this lawsuit?

A Yes, sir.

Q Now, can you explain why that conversation was recorded?

A No, sir, I can't give you a better explanation than that the recording device was affixed to Mr. Partin's telephone and he recorded indiscriminately the conversations that he was having over the telephone.

Q Do you mean the recording device was left with him for his use?

A It was on occasions.

Q Well, specifically on October 18, 1962, when the conversation recorded between Partin and Hoffa relating to this lawsuit was recorded, was that device furnished to Mr. Partin by you and your office?

A Yes, sir.

Q On that occasion?

A Yes, sir.

Q Now, we have you on an airplane going to Atlanta with Mr. Partin. Did you have a conversation with him on the airplane on October 20th?

A Very briefly.

Q And what was the subject of the conversation?

A In no way related to this case.

Q When the plane landed, what happened next? Just relate what occurred from that point on in Atlanta.

A To the best of my recollection, Mr. Partin and I caught either the limousine or taxi-cab and went to one of the leading hotels in Atlanta. I can't remember the name of it at the moment. And there we met with Mr. Frank Grimsley.

Q This is the 20th of October?

A The 20th or the 21st, Mr. Silets. I don't remember.

Q Yes, sir, now, did you register in the hotel?

A I don't think we did, sir.

Q Was there a room available for you when you arrived?

A Yes, sir.

Q Was that arranged beforehand?

A No. I don't think it was arranged beforehand unless we were to ask at the desk for Mr. Grimsley's rooms.

Q Yes, but my inquiry is specifically when you went

to Atlanta you knew at that time that you were going to a specific hotel?

A To a specific hotel, yes, sir.

Q And that was pursuant to an understanding with Mr. Grimsley?

A My going to Atlanta, yes.

Q And the meeting at the specific hotel also was pursuant to an understanding with Mr. Grimsley?

A Yes, sir.

Q And Mr. Partin had the same understanding, he went to the hotel with you?

A Yes, sir.

Q And to the best of your knowledge, was the room registered in Mr. Grimsley's name?

A I think it was, Mr. Silets.

Q And when you arrived you asked for Mr. Grimsley and they told you which room he would be in?

A Yes, sir.

Q Or did you know which room he was going to be in?

A No, I don't think I knew which room.

Q And you and Mr. Partin then went up to see Mr. Grimsley, is that right?

A Yes, sir.

Q Now who else was present?

A No one.

Q And will you relate what, if anything, occurred on that occasion?

A To the best of my recollection, Mr. Silets --

Q (Interposing) Yes, of course.

A There was a discussion of other matters or a continuation of the discussion of other matters not relating to this case at all. There was a discussion of the telephone call or exchange between Mr. Hoffa and Mr. Partin on the 18th of October, 1962. Mr. Grimsley was interested in knowing whether Mr. Partin would comply with the request that Mr. Hoffa had made for him to meet Mr. Hoffa.

Mr. Partin indicated that he would meet with Mr. Hoffa as soon as possible. Mr. Grimsley asked him would he keep his ears and eyes open and report any attempts at witness intimidation or tampering with the jury. And to report these either to Mr. Grimsley or to Mr. Walter Sheridan.

Q Now, did Mr. Grimsley advise Mr. Partin to contact Mr. Sheridan on his arrival in Nashville?

A I don't recollect that. I do think he gave him a telephone number in Nashville.

Q And did he advise Mr. Partin how long he should stay in Nashville?

A I don't remember that, Mr. Silets.

Q Did you proceed to Nashville with Mr. Partin?

A No, sir, I returned on the same aircraft with Mr.

Partin back to New Orleans.

Q Do you mean Mr. Partin went from Atlanta to New Orleans rather than going from Atlanta to Nashville?

A That's right, sir.

Q And when you and he arrived in New Orleans did you go back to Baton Rouge, both of you?

A I did, sir.

Q And what did Mr. Partin do?

A Mr. Partin went to the parking lot and got in his automobile. I stayed on the ramp overlooking the parking lot and I suspected that Mr. Partin was being tailed or surveilled. So I stayed behind and since my car was in the same lot I didn't want these people if they were surveilling, if there were surveillance, to begin pursuing me.

Q What led you to believe that he was being watched?

A My experience in the investigative field.

Q Now, did you discover that he was in fact being watched?

A I am sure in my own mind that he was being watched.

Q And do you know by whom?

A No, sir, I do not.

Q Do you know that it was the FBI who was watching Mr. Partin?

A I do not know who it was. Mr. Partin had been

under surveillance by persons not connected with law enforcement because these persons had told me that they were surveilling Mr. Partin.

Q Well, let's get this understood. Were those persons any of the defendants in this lawsuit?

A No, sir. I was pursuing your question.

Q Yes, I just didn't want the jury to have any inference that Mr. Dorfman was tailing Mr. Partin. Now, when was the next time, if ever, you talked to Mr. Partin?

A To the best of my recollection on or about October 25th, it could have been one or two days prior, or one or two days subsequent.

Q October 25, 1962?

A Approximately.

Q And where was that, sir?

A Mr. Partin called me from Nashville.

Q And what was in general the subject matter of his conversation with you?

A Not related to this lawsuit, sir.

Q Can you tell us the next time, if ever, you had a conversation with Mr. Partin relating to this lawsuit?

A I couldn't with particularity.

Q Did Mr. Partin ever advise you that the United States was paying support for his wife and children?

A No, sir.

Q Did he ever advise you that his expenses were being paid by the government?

A No, sir.

Q Did you ever learn that to be the fact?

End 28
29 fls

A Only from newspaper accounts, Mr. Silets.

Q Now, to your knowledge, Mr. Daniels, was the conversation between -- were any conversations between Mr. Partin and any witness who appeared in this case recorded?

MR. NEAL: Your Honor, we object to that. This witness hasn't been in the courtroom, he has been under the rule, he wouldn't have been in court, this is something that would be hearsay.

MR. SILETS: If he has knowledge, if your Honor please.

MR. NEAL: Ask him if he has any personal knowledge.

MR. SILETS: I mean I am not asking him to speculate.

THE COURT: Sustain the objection.

BY MR. SILETS:

Q Do you have any knowledge of any recordings of conversations between Mr. Partin and any witness in this lawsuit?

THE COURT: Sustain the objection.

MR. SILETS: The objection was, as I understood, irrelated to his personal knowledge.

THE COURT: This gentleman has been under the rule; how would this gentleman know anything about witnesses?

BY MR. SILETS:

Q Well, did you know who was to be a witness in

this lawsuit?

A No, Mr. Silets. I haven't followed this lawsuit at all until it began, I have no knowledge.

Q Now, you say you read about it in the newspapers. Did you see any names in those newspaper accounts of witnesses who in fact testified in this case and whose conversations were recorded with Mr. Partin?

A Not that I recollect immediately. I would have to review the news clippings, Mr. Silets, which I have kept, but I recognize no name immediately.

MR. SILETS: May I have a moment, your Honor? Your Honor, may we have a few minutes? It's just about that time anyway and I find my voice is getting a little jaded, if I may indulge and have the Court's indulgence upon a recess now.

THE COURT: Well, can't you complete your examination now and then take a recess at that time?

MR. SILETS: I would prefer, if the Court would permit us to have a recess.

THE COURT: All right. Ladies and gentlemen, let's be in recess.

(Thereupon, at 2:51 o'clock, p.m., a recess was had.)

fls 29
30 fls

(Thereupon, after recess, court was in session, and thereupon, the jury of 12 and 4 alternates were brought into the courtroom and the witness returned to the witness stand and the following proceedings were had, to-wit:)

THE COURT: All right, gentlemen, you may proceed.

BY MR. SILETS:

Q Mr. Daniels, I just have a few more questions.

A Mr. Silets, will you indulge us, may I have the last question read to me in order that I may correct or amend and supplement my answer?

Q Well--

THE REPORTER: It is upstairs, Judge. We can go get it.

THE COURT: Let's proceed and we can come back to the matter.

MR. SILETS: Yes, sir.

BY MR. SILETS:

Q Mr. Daniels, did you record any conversation with Mr. Partin and any other defendant or was such a conversation recorded other than the Defendant Hoffa?

A To the best of my knowledge--

MR. NEAL: Well, Your Honor, may we ask him for his personal knowledge now rather than hearsay or something else?

MR. SILETS: That is all he can answer as to what

he knows.

THE COURT: All right.

THE WITNESS: To the best of my knowledge, no.

BY MR. SILETS:

Q To your knowledge has any conversation between any of the defendants here and Mr. Partin been recorded by anybody else?

MR. NEAL: Objection, Your Honor.

THE COURT: Sustain the objection.

BY MR. SILETS:

Q Well, did you loan an instrument to Mr. Partin similar to the one that is exhibited to the jury for him to take with him to Nashville?

A No, sir.

Q To you knowledge, did he have such an instrument available to him while he was in Nashville?

A No, sir.

Q Now, how many recordings were made by Mr. Partin with any kind of machine to your knowledge?

MR. NEAL: Your Honor, that is not relevant unless it relates to this case in some way.

THE COURT: Sustained.

MR. SILETS: That is what I'm trying to arrive at.

BY MR. SILETS:

Q Were there other recordings than those you mentioned?

MR. NEAL: Objection, Your Honor. Same thing.

THE COURT: Sustained.

MR. SILETS: That is all, Your Honor.

THE COURT: All right, any further examination? Any cross examination?

MR. NEAL: Yes, Your Honor.

CROSS EXAMINATION

BY MR. NEAL:

Q Mr. Daniels, you are an official--, you are an official I believe of the state of Louisiana?

A Yes, sir, I'm employed in a constitutional office.

Q Of the state of Louisiana?

A Yes, sir.

Q You do not work for the United States Government or the Department of Justice, do you?

A No, sir.

Q You were not working in that capacity in 1962 with respect to these events you have described?

A No, sir.

Q Now, sir, with respect to the recording of these two conversations you talked about, did the United States Government have anything to do with that?

A No, sir.

MR. SILETS: Your Honor, that calls for a conclusion on his part. May it be stricken from the record?

THE COURT: Overrule the objection.

BY MR. NEAL:

Q The United States Government had nothing to do with that?

A No, sir.

MR. SILETS: Objection, Your Honor.

BY MR. NEAL:

Q Department of Justice.

THE COURT: Overruled.

BY MR. NEAL:

Q Department of Justice had nothing to do with that?

A No, sir.

Q Now, sir, I believe you said that that was recorded with the consent of the sender, that is, the man who made the telephone conversation, both of them. Is that correct?

MR. BRANSTETTER: May it please the Court, I think this calls for a conclusion because there is sending from each end.

MR.NEAL: Your Honor, the cases on this are rather clear, particularly the Rathburn case is one of them.

THE COURT: Let's not argue the matter now. Overrule the objection.

BY MR. NEAL:

Q These were recorded with the consent of the sender.

Is that correct?

A Yes, sir.

Q Now, is it not true that that is not a violation of the law?

MR. BROWN: Objection.

MR. SILETS: Objection.

MR. BRANSTETTER: Objection.

THE COURT: Sustain the objection.

MR. NEAL: Then we ask the instruction of the Court that that is not a violation of the act.

THE COURT: Let's proceed with the examination of this witness.

BY MR. NEAL:

Q During the course of your examination by Mr. Silets, I believe you sometimes referred to certain matters not concerned with this case. Didn't you mean with the Nashville case?

A That is what I meant, sir. I meant in this context that this case arose out of the Nashville case. These other matters had no connection whatsoever.

End 30

Tk 31 fol

Q But when you say "this case", you see, we are having a trial here, nothing concerned this case?

MR. SILETS: Objection, your Honor, some of it concerns, some of his testimony concerns this case.

THE COURT: Well, I believe his response is clear; proceed.

BY MR. NEAL:

Q Just to be sure, you talk about when you were saying that nothing concerned this case, you mean nothing concerned the Nashville case, is that correct?

A I meant to include the Nashville case.

Q Anything concerning this case, I mean this proceeding, the one in Chattanooga here?

A The only--

MR. HAGGERTY: (Interposing) I object to that as calling for a conclusion.

THE COURT: Sustain the objection. I think he answered the question.

MR. NEAL: Very well.

BY MR. NEAL:

Q Now, sir, I believe you said that when you had-- you and Mr. Grimsley and Mr. Partin met in Atlanta Mr. Grimsley asked Mr. Partin if he was going to comply with Mr. Hoffa's request that Partin meet Hoffa in Nashville?

A That is my recollection.

Q And Mr. Partin said yes, he was going to comply with that request, is that correct?

A That was my recollection.

Q And then Mr. Grimsley said, "Well, will you do me a favor?" Is that correct, or something to that effect?

MR. SILETS: Objection.

BY MR. NEAL:

Q "Will you do something for me?"

MR. BRANSTETTER: We object, may it please the Court, he didn't say any such thing that he sought to do Mr. Grimsley a favor.

MR. NEAL: Your Honor, I have never seen such objection to cross examination like this. We never objected.

MR. BRANSTETTER: He would object if he had cause to object, I assume, if it please the Court.

THE COURT: Overrule the objection, proceed.

BY MR. NEAL:

Q What were your words, I am not trying to put words in your mouth, I just want your words?

A Would Mr. Partin keep his eyes and ears open to see if there would be the intimidation or attempted intimidation of witnesses at the Chattanooga trial or jury tampering and to report this event to him or to Mr. Sheridan, it was put in a way that I would describe as a request.

Q Yes. Now, you said, "The Chattanooga trial,"

was that trial first?

A I meant the Nashville trial.

MR. NEAL: The Nashville trial.

THE COURT: All right. May this witness be excused at this time?

MR. BERKE: I'd like to ask this witness a question, your Honor.

MR. NEAL: Now, your Honor, it's not according to what your Honor said would be the procedure.

THE COURT: If it's in regard to the cross examination.

MR. BERKE: No, your Honor.

THE COURT: I inquired specifically if the defendants had any other examination.

MR. BERKE: If your Honor please, this is something that has just come to my mind and it wasn't covered by any of the parties.

THE COURT: Well, unless it relates to the cross examination I think we should follow some sort of orderly procedure. I inquired if there was any further examination before he was cross examined. I will allow you to ask a question and let's see.

EXAMINATION BY MR. BERKE:

Q Mr. Daniels, did you confiscate any International Teamsters records in your investigation of Mr. Partin?

MR. NEAL: Now, your Honor, you see how objectionable that is?

THE COURT: Sustain the objection.

MR. BERKE: All right.

BY MR. BERKE:

Q Mr. Daniels, in arranging these telephone conversations and so forth, did you arrange to reduce Mr. Partin's bond so that he could make himself available to you?

MR. NEAL: Now, your Honor--

MR. BERKE: (Interposing) That would show a promise if it happened, if your Honor please, and we think we are entitled to go into that.

THE COURT: Overruled.

BY MR. BERKE:

Q All right, sir.

A Mr. Berke, I would like to understand the question better, sir.

Q All right. Did you make any arrangements for the release, either by reduction of bond or to get him out on your say-so, to get Mr. Partin out of custody so that you could make all these arrangements with him?

A Positively not, sir.

Q All right. You say you didn't do that at all?

A I did not.

Q Well, did anybody in your office?

A No, sir, no one did. The bond had been set long before conversations took place, there would have been no possibility of anyone in our office controlling the amount of bail bond set or how it would be met, these things are not referred to the office of the District Attorney.

Q What about Mr. Thompson, the sheriff, did he arrange for a reduction of a bond from $50,000 down to $5,000 Mr. Daniels?

A This would not fall within the ambit of Mr. Thompson's duties as he was then employed.

Q Well, you are an investigator out of his office, don't you know, as a matter of fact, that his bond was reduced from $50,000 down to $5,000?

MR. NEAL: Objection, your Honor.

THE COURT: Sustain the objection.

BY MR. BERKE:

Q Are you familiar with the amount of bond, bail bond, that has been placed?

MR. NEAL: Your Honor--

THE COURT: (Interposing) Sustained.

MR. NEAL: This is their witness on redirect.

THE COURT: Sustain the objection.

MR. NEAL: Most improper.

MR. SILETS: Your Honor, I have one question on redirect if Mr. Berke is finished.

THE COURT: All right.

REDIRECT EXAMINATION

BY MR. SILETS:

Q Mr. Daniels, it's only a very short one, I won't go over to the podium.

Isn't it true that on August--

MR. NEAL: (Interposing) Object to the leading form of the question, your Honor.

MR. SILETS: All right. I will walk over to the podium.

MR. NEAL: I don't object to your position in the room, I said the leading form of the question.

MR. SILETS: All right.

BY MR. SILETS:

Q Mr. Daniels, directing your attention to October 7, 1962, was a new bond placed against Mr. Partin at that time?

MR. NEAL: Your Honor, this has nothing to do with my cross examination.

MR. SILETS: No, but it has something to do with Mr. Berke's cross examination, your Honor, I am not--

THE COURT: (Interposing) Sustain the objection to that.

MR. SILETS: Your Honor, may I inquire if this, if new matters are raised either on cross examination by the

government or cross examination by other defendants, am I not permitted on redirect--

THE COURT: (Interposing) All right. State your question.

MR. SILETS: All right. Will the reporter read the question, please?

(Thereupon, the pending question was read by the court reporter.)

THE WITNESS: Your Honor's ruling?

THE COURT: If you know you can answer.

A I think there was, Mr. Silets.

MR. SILETS: Thank you.

RECROSS EXAMINATION

BY MR. NEAL:

Q Mr. Daniels, the Federal Government, the United States Government, the government I represent, you understand, ever ask you to do anything, to promise this Mr. Partin anything or do anything for him?

MR. SILETS: Your Honor, may we object before this kind of question comes out?

MR. NEAL: Your Honor, this is what the testimony was driving at that we objected to.

MR. SILETS: This is recross.

MR. NEAL: We are getting--

MR. SILETS: (Interposing) Now, we have to have

some understanding about the rules of evidence and the rules of examination of witnesses.

Now, it's my understanding if there's going to be a recross it's going to be on the basis of redirect. I didn't raise anything of that sort. I asked him about a new bond.

MR. NEAL: Mr. Berke asked it, your Honor, instead of asking the question that presumably would he knew be relevant he hits at something else.

THE COURT: Overrule the objection.

BY MR. NEAL:

Q The question was, sir--would you read the question, Mr. Reporter?

(Thereupon, the pending question was read by the court reporter.)

A At no time.

MR. HAGGERTY: I object to the form of that question, may it please the Court. Mr. Neal represents the United States Government, in fact, we all represent the United States Government.

THE COURT: Well.

MR. HAGGERTY: Mr. Neal is one of the attorneys in this case representing the Department of Justice.

THE COURT: All right. Sustain the objection to the form of the question and permit him to ask it again.

MR. BERKE: If your Honor please, that would open up another question I'd like to ask based on what Mr. Neal stated, I'd like to ask this question:

Don't you know, as a matter of fact, that the state--

MR. NEAL: (Interposing) Your Honor, just a moment.

THE COURT: Well, I am going to overrule the defendant's objection and proceed.

EXAMINATION BY MR. BERKE:

Q Don't you know, as a matter of fact, that certain charges were by the State of Louisiana nol-prossed, that is, dismissed, in December of 1963?

A I am going to answer that question and I am going to explain it in full. The first question that has been raised having to do with or relating to bail bond is not a proper question because it does not--

End Tk 31
Tk 32 fls.

MR. SIIETS: I object, Your Honor.

MR. BERKE: We want to object to him--

THE COURT: (Interposing) Well, you gentlemen got into this area.

MR. SILETS: I don't think the speech is responsive.

MR. BERKE: I don't expect him to rule on this question. I thought the Court would rule on that as to whether the question is proper or not.

MR. NEAL: I think he should be entitled to give the truth in this matter whatever it is. They asked the question. They opened it up.

MR. SILETS: Your Honor, I object to that. Is he asking the defense to ask this man to perjure himself?

THE COURT: State your question.

MR. BERKE: Rather than create a hassle I will withdraw the question.

MR. NEAL: No, Your Honor, we want him to ask him.

MR. BERKE: If Your Honor is going to rule on the question--

MR. NEAL: (Interposing) No, may we have the witness answer?

THE COURT: I have not ruled upon any question.

MR. BERKE: I certainly have a right to withdraw the question and I do that.

MR. SILETS: May I move that his answer be stricken as not being responsive?

THE COURT: Strike the answer.

MR. NEAL: Would you read the question that Mr. Berke asked? That is my question?

MR. BERKE: If Your Honor please, there is no recross if I withdraw my questioning, he is through.

THE COURT: State your question, Mr. Neal.

BY MR. NEAL:

Q Mr. Daniels, you were asked if it was not a fact that the state had nolle prossed action against Mr. Partin; now would you answer the question in your own words? As late as December, late as December?

MR. SILETS: Your Honor, hasn't that been withdrawn? Isn't the subject matter closed? Is not--, Your Honor has now on several occasions tried to circumscribe or to limit this from being repetitive. Now Mr. Neal wants to back one question after another. We have to follow some semblance, some format here. What is he cross examining on? I understand the question has been removed.

THE COURT: Overrule your objection.

BY MR. NEAL:

Q Let me state it again. There has been a lot of insinuations here, a lot of stuff--

MR. BROWN: I object to that.

MR. BRANSTETTER: May it please the Court, we ask that Mr. Neal's remarks be stricken.

THE COURT: Yes, disregard the remarks of counsel.

BY MR. NEAL:

Q Did you hear my question, sir?

A Yes, sir.

Q Would you respond?

A I would like to answer and explain--

MR. BERKE: If Your Honor please, we want to object to it because it is going to open up a new field. Going to go into all the charges against him. And I withdrew the question and I think at this time there is nothing else for Mr. Neal to go on. I am willing for the court to open it up for me to go ahead into all these charges, what they did with them, how they conducted it. Now I think that if the Court is going to let Mr. Neal do that it would be fair for us to go ahead and open this subject up.

THE COURT: I have attempted to stop this a long time ago.

MR. BERKE: All right, Your Honor, I withdrew the question and was willing to do it.

THE COURT: Well, it had been stopped before then. I don't see that it has anything material to add here.

MR. NEAL: Your Honor, we've been attempting to do that all the way along but they have been coming out with

these insinuations.

MR. BROWN: Your Honor, I object.

THE COURT: Yes, if it has any relation to this case you can ask him but if it has no relation I believe the witness has responded to that.

MR. HOOKER: There has been some suggestion that they offered him some sort of reward and special treatment. We think the witness is entitled to answer. He says he can answer it and explain.

THE COURT: I will allow you to ask him what if anything he may or may not have done in that respect.

BY MR. NEAL:

Q Well, Mr. Daniels, I will ask you just again, was anything done for this man out of the ordinary?

A No, sir.

MR. HAGGERTY: We object to that as calling for a conclusion. I object to it as calling for a conclusion, Your Honor. Was it sustained, Your Honor?

THE COURT: Sustain the objection.

MR. HAGGERTY: Then let the answer be stricken and the jury instructed to disregard it.

THE COURT: Strike the answer. Anything further?

MR. NEAL: Has this man been treated any differently than any other man?

MR. BROWN: Your Honor, that calls for a conclusion.

Same thing Mr. Neal represented the speech about. I represent the government.

MR. NEAL: Your Honor, they are the ones who has been trying to bring insinuations in here and now they object when we start tc --

MR. HAGGERTY: (Interposing) I object to this speech by Mr. Neal. He will have time to make a speech at the end of the case.

THE COURT: Anything further of this witness?

MR. NEAL: I ask that we strike all insinuations if that is possible.

MR. BROWN: May that include those of Mr. Neal, may it please the Court?

MR. NEAL: Since they won't let the truth out.

MR. SILETS: Now, Your Honor--

MR. BERKE: (Interposing) Your Honor--

MR. HAGGERTY: (Interposing) Just a moment--

MR. SILETS: (Interposing) Your Honor, I ask that a mistrial be declared on the basis of those comments and I ask that there is no semblance of order or discipline in this courtroom when a man who represents the United States of America, represents everybody, people in thatjury box, and people on this side of the courtroom, too, makes an insinuation that he is interested in the truth and we're not. Now, Your Honor, this is highly prejudicial.

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THE COURT: All right. All right, gentlemen. Gentlemen. Ladies and gentlemen, completely disregard the statement of counsel for the government. Disregard the argument of the attorneys in this matter and let's proceed.

MR. SILETS: May Mr. Neal be reprimanded for that, Your Honor? May he be advised and cautioned and instructed not to continue in these kind of things?

THE COURT: Well, I have tried to stop the argument between counsel here for the last five minutes and I'm going to stop it right now. If there is any other motions you have to make I will hear any motions you have. But let's stop the argument and proceed with the case, gentlemen.

MR. HAGGERTY: May it please the Court, during the cross examination that happened this morning, time and time again Mr. Neal went beyond propriety.

THE COURT: Mr. Haggerty, if you have a motion, state your motion.

MR. HAGGERTY: I have a motion.

THE COURT: State your motion.

MR. HAGGERTY: My motion is for Your Honor to admonish Mr. Neal for not only the statement he made but from making future statements such as he did which are highly prejudicial to all defendants in the presence of this jury.

THE COURT: Well, the Court has given counsel--

MR. HAGGERTY: (Interposing) I think it is Your Honor's duty to admonish him.

THE COURT: The Court has given counsel on other occasions, addressed to all counsel, the Court expects all counsel to abide by it.

MR. SILETS: Your Honor, it has been obvious that they have not been effective.

THE COURT: Let's proceed, gentlemen. I said if you have an objection let me hear it. I will not hear other argument.

MR. BRANSTETTER: I am not arguing, but on behalf of the Defendant Campbell I move fora mistrial and take exception to the Court's failure to admonish government counsel.

MR. ALEXANDER: May all defendants join in?

THE COURT: Joined in by all defendants. Overruled as to all defendants. Is there anything further? If not, you may be excused.

(Witness temporarily excused.)

MR. HAGGERTY: Now, this witness, Your Honor, under the ruling before the witness is excused--

THE COURT: (Interposing) Yes.

MR. HAGGERTY: This witness is for another purpose but I understand he is going back for Thursday in Baton Rouge. Is that correct?

THE COURT: That is the Court's understanding.

MR. HAGGERTY: But at some future time he is still under subpoena and I do not want him to be released.

THE COURT: All right. You will remain available until after we adjourn this evening and the court will give you further instructions in that regard, Mr. Daniels.

THE WITNESS: Yes, Your Honor.

THE COURT: Call your next witness.

MR. SILETS: Your Honor, just a moment.

MR. SCHIFFER: Sorry for the delay, Your Honor. I wanted to make sure Mr. Silets had finished with the witnesses. May I call Mr. Parks, Your Honor.

THE CLERK: Raise your right hand, please? Do you solemnly swear that the evidence you will give in this case shall be the truth, whole truth, and nothing but the truth so help you God?

THE WITNESS: I do.

THE CLERK: Have a seat.

MR. SCHIFFER: May I proceed, Your Honor?

THE COURT: Yes.

(THOMAS EWING PARKS,)

one of the defendants, called as a witness in his own behalf, having first been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. SCHIFFER:

Q Would you state your full name, age and your residence, Mr. Parks?

A Thomas Ewing Parks. Nashville, Tennessee. Forty-five years old. Live at 2408 Clifton Road.

Q And would you just try to speak up a little louder, please?

A Yes. Thank you.

Q What is your occupation now?

A Well, I'm presently employed at the funeral home of Charles Tillett Smith in Nashville, Tennnessee.

Q Were you born in Nashville?

A I was.

Q And what was the profession of your father?

A He was a minister.

Q What was that?

A A minister.

Q Sorry.

A Minister.

Q Here in Chattanooga?

A At one time he did pastor here. His last pastorate was in Nashville, Tennessee.

Q Mr. Parks, in Count 3 of this indictment to which you have pleaded innocent--, you have read this charge? And the language used in this count accuses you from on or

about October 20, 1962 to and including December 22, 1962 that you and Mr. Hoffa, Mr. Campbell, with Mr. Hoffa and Mr. Campbell aiding and abetting, counseling, commanding, inducing, and procuring you to do an unlawful act to tamper with the jury; you have read that count, have you not?

A I have.

Q You pleaded innocent to that count, have you not?

A I have.

Q Now, before this case, or before the investigation in this case in Chattanooga, did you know Larry Campbell?

A Yes, I did.

Q And he, is he related to you?

A He is my nephew.

Q Up to the time when this case came about, did you know Mr. James Hoffa?

A No, I did not.

Q Did you know Mr. Allen Dorfman?

A No, I didn't.

Q Did you know Mr. Nicholas Tweel?

A No, I did not.

Q Did you know Mr. Ewing King?

A No, I did not.

Q Do you know a lady named Bertha Smith?

A Yes, sir, I do.

Q Would you tell us who she is?

A She is my sister.

Q And do you know Audry Ruth Campbell?

A Yes, sir, I do.

Q And is she related?

A Yes, she is Larry's sister. My niece.

Q Do you know a Mr. Sheets and Mr. Norwood of the FBI?

A Yes, I do.

Q Do you know Mr. Walter Sheridan?

A Yes, sir, I do.

Q Do you know a patrolman in Nashville, Tennessee named Jack Walker?

A I do, sir.

End 32A

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Q Do you know Mr. Neal?
A I do.
Q Mr. Shaffer?
A I do.
Q Mr. Durkin?
A I do.
Q Did you ever talk with Jack Walker, the policeman, in October of 1962?
A Yes, sir, I did.
Q Now, tell us where you spoke with him.
A Well, I met him on the street in Nashville, Tennessee. I think at that particular time I was on my way home from work, I might add I was employed at Carlton's Cleaners at this time.
Q Yes.
A I don't remember exactly, some days we were off earlier than other days, I don't remember exactly what time it was or even the exact day it was, but, anyway, he asked me did I want to make a little extra money and so I asked him yes, how would it go about it, how would I go about it.

He asked me to come out to his place of business about 5:00 o'clock that same afternoon.

Q I see. On that same afternoon did you go to his place?
A I did, sir.

Q What kind of place is that that you went?

A Well, he had a secretarial service there and he did printing and calling cards, statements and billheads, letterheads and stuff like that.

Q I see. Now, when you arrived at Walker's place, his office, did he say something to you and did you say something to him?

A I did. I told him I was here and ready to go to work, what did he have in mind, and he said he had an assignment from the government, the federal government, and he wanted me to help him out on a little detail that for reasons of his own he wanted it did that way.

Q And did he explain anything to you?

A And I asked him what it was and he said that he needed some information and that he would pay me for helping him out to deliver the message for him that he wanted.

Q And did he tell you the message that he wanted delivered?

A Yes, he did.

Q Will you relate what he told you, please.

A He told me that he had, would have a young fellow there that afternoon and that if I could come back about 6:30 or 7:00 o'clock this young man would be there at that time, but in the meantime he wanted me to give him a hundred dollars and for telling, he mentioned to me what type clothing

his father would be wearing each day, that's when he left home each morning.

Q And what happened?

A And then he said, "I will give you $25 and all along as long as you -- this young man gives you information, you give it to me, why, I'll always have a little something in it for you."

Q I see.

A He said, of course, "I will explain the details to him when he gets here."

Q Yes. Now, then, did you come to his place that night?

A Yes, as I say, he gave me the money then and when he told me this young man was named Carl. When I got back between 6:30 and 7:00 o'clock, he and this fellow that he said was Carl and two more fellows that I didn't know and I wasn't introduced to were there.

Q Could you speak a little bit louder, please?

A Yes. And he said, "Tom, this is Carl." He said, "Now, I have explained to him that you would tell him what I wanted did." And he said -- he said, "Well, okay." He said, "Why don't you take them out in the car and talk to him?"

That's what I did.

Q Did you do that?

A Sir?
Q Did you do that?
A I did that.
Q Now, tell us what ensued and what happened in the car?
A Well, I got in the car and I says, "I suppose Mr. Walker told you just what he wanted did and I am to give you my phone number where you can call me and then I will contact him, in turn I will contact him and give him your message and he wanted me to give you this money," and which I did give it to them.
Q And he took the money?
A He took the money and he said, "Now, I will let you, I will think this over and I will call you and let you know what I decide to do about it."
Q Was that the end of that conversation?
A That was the end of that present conversation, that was the last one I had with him in person.
Q And he left?
A He left.
Q And you left?
A And I left.
Q That night did you speak with Patrolman Walker?
A Yes, sir, I did.
Q Will you explain the circumstances to the jury,

please.

A I think about 8:30 or 9:00 o'clock, Patrolman Walker called me at home and asked me had I received a message from Carl.

I told him no, I hadn't and he said, "Well, I am going to give you this number where you can contact him and you call him and find out what he is going to do because I have got to know."

So he gave me the number and I called and a man answered the phone. I said, "Let me speak with Carl." And I identified -- I says, "This is Tom."

I said, "Mr. Walker wants to know what you have got to tell him."

He said, "Well, I have talked this over with my mother and she thinks that I shouldn't get involved in it because I don't know what it is he is really trying to find out."

And I said, "Well, you know Mr. Walker is a policeman, it wouldn't be anything illegal, I don't think."

And he said, "Well, yes, but it involves more than he had evidently told me." He said, "I think I'd better give you the money back."

I said, "No, the money doesn't belong to me." I said, "Inasmuch as you know it belongs to Mr. Walker, you give it back to him." I said, "And I will just tell him what

you are telling me."

Q And did you so report to Patrolman Walker?

A Then I called Mr. Walker and told him just what Carl had told me.

Q And that was the end of that incident?

A And he said, "Well, just forget about it."

Q Did there come a time when you met with Patrolman Walker again?

A Well, I suppose it was possibly a week, I say possibly, around 10 days or so, that he called me and asked me if I could -- if I wasn't busy could I stop by his place of business and do him a favor, and so I did.

Q And you picked him up, you say?

A I carried him to his place of business there in Nashville, Tennessee, and he asked me to drive him out to South Nashville at the Napier Homes, I believe, in the vicinity there, the social center of the Napier Homes.

When we got there I parked and he got out. He said, "I will be back in just a few minutes." And he did, he went in and he was about -- I will say 10, maybe 15 minutes, I can't be exact, he come back out and I said, "Do you want to stop anywhere else?"

He said, "No, just take me on back to the place." That meant his place of business and I did so.

Q That was the end of that incident?

A That was the end of that incident.

Q Now, did you receive a subpoena to the Grand Jury in Nashville?

A Yes, sir, I did.

Q Do you recall when you received that subpoena?

A It was around the first part of '63, I think, I forget what date but I believe it was in January or the first of February, somewhere along in there.

Q Now, when you received that subpoena, did you or not have any conversation with Patrolman Walker?

A Yes, when I received the subpoena I couldn't find my attorney at that particular time, I was informed he was out of town and I didn't have any counsel to go before the Grand Jury, no advice from an attorney, and I called Mr. Walker, knowing that he said that he had an assignment from the federal government, and I asked him what could he do about the thing?

He said not but one thing to do and that is go and he said, "That is the best thing to do about it, is just take the Fifth Amendment since you haven't got a lawyer."

Q This is what Patrolman Walker told you?

A This is what Patrolman Walker told me.

Q And how soon after this conversation did you attend the session of the Grand Jury?

A Well, I received a subpoena in the afternoon of,

to my best knowledge I was subpoenaed like this afternoon, I had to be there at 9:00 the next morning.

Q Now, after you received the subpoena you saw, if I understand your testimony, you saw Patrolman Walker and this is the conversation you related you had with him and then you attended the Grand Jury the following morning?

A I think it was the very next morning, I can't be specific on those dates, it had to be the first of '63 and I really don't know the exact date I did receive the subpoena.

End 33
33a fls

Q I see. Did there or not come an occasion when you again saw Patrolman Walker with reference to that subpoena?

A Let me see. Oh, he called me following the day that I had to appear before the grand jury and asked me how did I make out.

Q And what did you tell him?

A I told him as far as I knew all right, I taken the Fifth Amendment to about every question they asked me.

Q During the latter part of 1962, did you have relatives living in Louisville?

A Yes, sir, I did, I still have some there.

Q Now, was there anything unusual which occurred concerning any of your relatives who were then living in Louisville?

A Yes, sir, I had three of my relatives to pass during that time, I think from about July up until December or August up until December of '62, one of those months, I don't have the record right now.

Q Do you know the names?

A Yes. I--the first one to pass was John Sevier, which was a cousin--was the husband to my first cousin, her name was Willie Sevier.

Q Is that spelled (spelling) S-e-v-i-e-r?

A That is correct.

Q That was the first one to die?

A Yes, sir.

Q And who was the second one?

A The second one was a brother of Willie Sevier, which his name was James Parks.

Q And when did that party pass away?

A He passed away, I would say, about seven or eight weeks, I suppose, after the death of John Sevier.

Q About seven or eight weeks after?

A Yes.

Q And did you indicate that there was a third death that year?

A That's right.

Q Who was that?

A That's Willie Sevier, a cousin, a first cousin of mine, she was buried the 24th of December in 1962.

MR. NEAL: Can we have the witness to speak up a little, we can't hear these names, we don't know whether these are last names or first names or what.

BY MR. SCHIFFER:

Q Was that Mrs. Willie Sevier?

A That was Mrs. Willie Sevier, that's right.

Q Now, during this time from August to December, were you receiving any telephone calls concerning the physical condition of these three relatives of yours who passed away?

End Tk 33A
Tk 34 fls.

A During what months?

Q During the period from August through to the end of the year.

A I think practically all the year I had been receiving phone calls.

Q From Louisville?

A From Louisville, from Detroit as well as Chicago.

Q I see. Now, tell me this, when you--were you interviewed at any time by Mr. Sheets of the FBI?

A Was I interviewed?

Q Were you ever interviewed by Mr. Sheets of the FBI?

A Well, he--you want me to tell you the first time I come in contact with Mr. Sheets?

Q No. Just give me a yes or no answer.

A Yes, I have.

Q Have you ever been interviewed by Mr. Sheets?

A Yes, sir.

Q Have you ever been interviewed by Mr. Sheets more than once?

A Yes, if you could call it interviews, I suppose.

Q In any of the interviews that you had with Mr. Sheets did you tell him about the three relatives in Louisville who had passed away and concerning the numerous telephone calls you say you received from the Louisville area?

A I don't think at the last interview the last conversation I don't think you can call it exactly interview between me and Agent Sheets. I don't think the death had occurred of this one, Willie Sevier. Willie Sevier died about the 22nd of December and I didn't have any further conversations with Agent Sheets after he was in my place of employment around December, about the middle of December.

THE REPORTER: I didn't get the name of that relative.

Q Would you spell it?

A Sevier. Willie Sevier (spelling) W-i-l-l-i-e S-e-v-i-e-r.

Q Willie Sevier. I will repeat that question because you couldn't get the whole answer and the reporter cut in. Did you tell Mr. Sheets when he interviewed you at any time concerning your relatives who had been passing away and in Louisville and the numbers of telephone calls coming to you from Louisville, did you tell that to Agent Sheets at any time?

A Now, let me get the question right, did I tell Mr. Sheets concerning any relatives that were ill or had passed in Louisville?

Q Louisville, Kentucky?

A Concerning any calls that I might have been receiving?

Q Yes.

A That is your question?

Q Yes.

A I told Mr. Sheets that his question he asked me did I have any people living in Louisville and I told him yes. And in that particular instance I remember distinctly telling him that one particular time there--well, at a same case that I had a cousin to pass, I believe, the previous month to when he was questioning me about that.

Q Now, did you at that time discuss with him the fact that you had had telephone calls from Louisville to you in Nashville?

A Well, maybe I can make you understand it this way. He was asking me questions on the side at that particular time. When he come into the house I had just finished having dinner. And I was--Mrs. Mix and I was at home. And she opened the door and him and Agent Norwood walked in. Agent Sheets and Norwood, they come to visit. Mrs. Mix called me in. That is when he introduced himself to me and I introduced myself to him. So then he started telling Mrs. Mix that she had been getting long distance calls there and he wanted to know who they were from. And he had a list, well, a piece of paper with what he said was a list of phone calls on it. And then all of a sudden he turned to me and asked me did I know Larry Campbell? I said, "Sure do. He is my

nephew." And he turned to Mrs. Mix and asked why did she tell that damned lie for she didn't know him? Which is true, she doesn't know him, or didn't know him. Then he asked me concerning any relatives I might have in Louisville and I tried to explain to him but he didn't want to hear that.

He wanted some confession from Mrs. Mix concerning what he said was phone calls to her residence.

Q Now, at the time when he was interviewing you there at Mrs. Mix's house, was he making notes?

A He was making notes.

Q Did he take down the telephone numbers you were talking to him about and the names of your relatives?

A I didn't give him any phone numbers in Louisville.

Q Did you give him the names of any relatives in Louisville?

A I gave him the name of two relatives in Louisville. One that was deceased and one that lived presently still in Louisville.

Q Now, was he writing these things down?

A He was writing those things down.

Q When you were giving him these names?

A Yes, sir.

Q Now, with reference to the telephone calls from Louisville, Mr. Larry Campbell to you, or any calls from you to him, was there any reason why Mr. Campbell was calling you?

A Yes, sir, there was a reason.

Q Now, would you explain that to the jury, please?

A Well, all during that particular period besides other family matters we were expecting and pending the release of Larry's sister, Audrey, from the Northville Mental Institution in Michigan which she had been an inmate there for ten or twenty years. And we were trying to get her home by the holidays that particular year in 1962.

However, I don't think that she were released, in fact, I am sure it was after that the holidays of 1962 before she were released.

Q Now, did you recognize the witness, Mary Reeves, who testified here, the nurse from Detroit?

A Yes, sir.

Q Was she helpful in securing the release of Larry's sister?

A She was.

Q She was, and can you tell us when? Larry's sister was actually released from the institution, the mental institution in Michigan, can you tell us when?

A I believe it was in January of 1963. Now what date I can't recall. January or February of 1963.

Q Now, was there any activity on your part and the part of anybody else in your family aside from Larry Campbell in Nashville talking about your family in Nashville?

A Yes, sir.

Q To secure the release of Larry's sister from the institution in Michigan?

A Yes. My sister, Bertha Smith, she was very interested in getting her back to Nashville.

Q And when Larry's sister was released, did she go to live with Mary--your sister, Bertha Smith's home?

A Yes, sir, she did.

Q And is she still there?

A She is still there.

Q And you explained all of this to Mr. Sheets?

A No. Mr. Sheets, his investigation was so thorough as he pretended it was, he would have known.

Q I couldn't hear you.

End Tk 34
Tk 34A fls.

A I said if Mr. Sheets investigation was as thorough as he pretended it was, he would have knew it. I didn't want him running around worrying my people to death.

Q You say he was worrying your people?

A You couldn't hardly move without him around there.

Q Do you mean Mr. Sheets and Mr. Norwood, is that the name of the other agent there with him?

A That is the name of the other agent.

Q You indicated that they were the ones who were harrassing--

A (Interposing) That's right.

Q With regard to the city of Nashville, prior to the case in 1962, in Nashville, Tennessee, when prior to that time had you seen Larry Campbell in Nashville?

A Prior to the 1962 trial?

Q Yes.

A I am confident it was in 1961. What month I can't remember. But I do remember it so well that he was driving a truck load of food to Tent City.

Q And did you see him on that trip?

A I did.

Q How long did he stay in Nashville in 1961 when you saw him on that occasion?

A As I recall he got there about one o'clock in the morning and he left around five I believe. Same morning.

Q All right, sir. Now, will you tell the jury with reference to your Grand Jury appearance which you have described you attended, did you meet Mr. Durkin there?

A I did, sir.

Q Did Mr. Durkin or not introduce you to any grand juror?

A No. Mr. Durkin told me that there was a member of the Grand Jury that wanted to talk to me. But I can't truly say that he told me what the man's name was because he brought me to the man.

Q I see. Now, explain to the jury what happened with this grand juror and you.

A Well, I were putting my coat on in the witness room to leave and after they were finished with me in the grand jury room. And Mr. Neal was there taking a statement from Mrs. Mix concerning some telephone threats that I had reported to the FBI concerning Mrs. Mix's children in Chicago. That is when Mr. Durkin come to me and told me a gentleman wanted to see me. I hung my coat back on the rack and went to the door. And he stepped out of the grand jury room.

The coat rack hanging there that had all the members of the grand jury coats and hats on it. We stood there until all the members come out of the grand jury room, all of the members of the grand jury came out. This guy was

telling me that his name was Miller. He said he lived at Smithville, Tennessee. That he knew me. He said I used to trade at his grocery store on Charlotte Avenue. And he wanted to help me establish an alibi. For why I taken the Fifth Amendment. I told him, I said, "Now, I don't think I need that because anybody had been talked about in the newspapers as I have and accused of things I have and then come before the Grand Jury without an attorney he needs a Fifth to file or something." And he said if I would come out to, out to his brother-in-law's store on Hart and Lewis Street that is in South Nashville, at four o'clock that afternoon that he would help establish an alibi with me that he could give to the Grand Jury and in turn he could see that I wouldn't be indicted.

End 34A

Tk 35 fol.

Q This is the grand juror telling you that?

A That's right, the name was Miller from Smithville, Tennessee.

Q Incidentally, can you tell us whether Larry Campbell was in Nashville between the trip you have described in 1961 and the date when he arrived in Nashville to be arraigned under the indictment?

A Not to my knowledge, I don't remember any occasion of him being there.

Q I see. Did you ever speak with Mr. Walter Sheridan?

A Yes, sir, I have.

Q Was it in relation to this present indictment that you spoke to Mr. Sheridan?

A No. This -- my first encounter with Mr. Sheridan was, to the best of my knowledge, after I had been indicted on a failure to file an income tax charge that he subpoenaed me, that's the second subpoena, and when I arrived at the courthouse at 9:00 o'clock I was informed by one of the marshals that Mr. Sheridan wanted to talk to me privately back in, I suppose, his office is what it was.

Q And did you go into Mr. Sheridan's office?

A I did.

Q And did he say anything to you?

A Well, he told me that I was a nice fellow, he

didn't want to see me hooked up in anything like that that I was facing and at that particular time I had not been indicted on this charge that I am charged here with.

Q Yes.

A I only had that income tax, which is still pending because I have never been tried on it.

Q Yes.

A And he told me that if I would cooperate with him, and I believe he said he had been waiting on me for, I believe, to the best of my knowledge, ever since -- ever since January, whenever the Grand Jury convened there to start investigating these matters.

Q Yes.

A And that I could forget about that income tax thing if I would just go along with what he had in mind for me.

Q Well, did he explain to you what he had in mind?

A Oh, well, yes, he did.

Q Would you tell the jury, please, what he said.

A What he wanted, had in mind -- I never knew Mr. Hoffa or any of the other defendants besides my nephew, I didn't know anything or any plans, I didn't know of any law that they had violated or broke, so he had a list of names which began with Mr. Hoffa, Mr. O'Brien, Mr. Bufalino, Larry Campbell, and me bringing up the rear and he said that if I

would go along with him that he -- and cooperate to the extent that I would give him the information that I could give and I said, "If I cooperated any way I would have to be lying because I don't know a thing about these people's affairs no more than, in fact, I didn't believe what I read in the paper, especially if it concerned me."

So he said, he decided that if he would not indict me would I go along and cooperate with him.

I said, no, I wouldn't.

He said, "Now, suppose I take Larry out of it?"

I said, "It's still nothing I could tell you but a lie."

And so I suppose we talked for, I imagine, two hours back and forth talking and drinking coffee, but if I remember correctly during that first conversation I don't think that I had been called for trial on this particular indictment I have on income tax, I know I hadn't because he told me I wouldn't have to worry about it.

Q Pardon me?

A He told me I wouldn't have to worry about that income tax indictment if I would just go along with the program that he had on.

End 35
35 a fls

Q Was it explained to you that you were to receive immunity?

A It was explained to me, I suppose you would mean immunity by me not being indicted.

Q However, he explained it to you and how did you understand him?

A How did I understand him? I just understood that if he said that I wouldn't be indicted I wouldn't be indicted, I considered he had that much power.

Q He said he had that much power?

A He said he was as high as they go in the Justice Department without bragging on hisself, that those were his words.

Q Now, prior to the time when you were indicted on the income tax charge did anybody saying he represented the government have any conversation with you about the indictment before the indictment came out?

A On this income tax charge?

Q Yes.

A One afternoon I was off from work, I come home from work and there were two agents that represented themselves as Internal Revenue men waiting at Miss Mix' home and they asked her for me and she called me to the door and I says, "What is it, gentlemen?"

They say, "Are you Mr. Parks?"

I said, "Yes."

They say, "Well, how about stepping out here in the car a minute."

I said, "Not this afternoon." I said, "What do you want?"

He pulled out his badge and said he was an Internal Revenue man and did identify himself, I don't know if the indictment will show the arresting officer or not on that, but, anyway, so after I wouldn't talk to him they wanted to know did I file my income tax in this particular year and I told them I did, that I would have had no need not to, and they finally left after they couldn't persuade me to sit in the car and talk to them.

The thing I knew behind that, I would say maybe a week later, that Mr. Kemp over there and another marshal came, they come on my job and arrested me for this income tax charge and that's when Mr. Sheridan stepped in and made his offer to drop it.

Q Now, I show you this paper and ask you whether you can identify it for us.

A Yes, sir, I think this is a copy of that income tax indictment.

MR. SCHIFFER: I should like to offer it in evidence, if the Court please.

MR. DALE: 181, your Honor.

THE COURT: All right.

(The indictment referred to above was marked Defendant Parks Exhibit No. 181 for identification and received in evidence.)

BY MR. SCHIFFER:

Q With reference to this income tax indictment, it states that you didn't file an income tax return for one year.

MR. NEAL: Is that in evidence?

MR. SCHIFFER: I believe it is now.

BY MR. SCHIFFER:

Q And that you had received a gross income during the year 1961 of $1,568.78 -- and 17 cents?

A That's right.

Q Now, with reference -- may I pass this to the jury, if your Honor please.

THE COURT: All right.

BY MR. SCHIFFER:

Q Now, was there some talk when you spoke of the government agents on this income tax that you had money coming to you in a rebate?

A Yes, sir, I told them I understood that they owed me $26 and about 3 cents on this present --

Q (Interposing) Now, prior to this indictment coming up, and it is dated in February, 1963, did you have any conversation with anyone representing the government who

threatened you with that indictment if you didn't assist Walter Sheridan?

A No, I don't believe I had any contact, any talk with anyone representing the United States Government to threaten me with this indictment. That indictment in a sense came as a surprise.

Q It came as a surprise?

A (Witness moves head up and down.)

Q Now, did this indictment come after you had had conversations with Mr. Sheridan and Mr. Sheets?

A No, I didn't have any conversation with Mr. Sheridan personally until after this indictment, then he subpoenaed me.

Q Until after this indictment?

A That's right.

Q I see. In a conversation with Mr. Sheridan, was it ever indicated to you what would be done for you if you cooperated with the suggestions of Mr. Sheridan and lied about Mr. Hoffa and the others?

MR. HOOKER: We object to that as leading.

THE COURT: Sustain the objection.

MR. SCHIFFER: Did you have a conversation -- I withdraw that, Judge.

BY MR. SCHIFFER:

Q Did you have a conversation with Sheridan con-

cerning what you testified to before you would tell him the story he wanted, do you recall?

A I recall it.

Q Now, will you tell us what he told you he would do for you, if anything?

A Well, he told me that if I would cooperate with him that I wouldn't have to stay in Nashville, that I could take my choice of any city or state in the United States that I wanted to live in under government protection and I wouldn't have anything to worry about, that I was one time informed that I could change my name if I were afraid of anything.

Q And for this will you repeat for the jury what was suggested that you should do to get these benefits?

A Well, at one -- at one situation there, which I think amounted to about three, he asked me if I would call Larry and arrange for him to fly to Louisville or Cincinnati or some place and he would meet with us there, I am speaking of Larry Campbell, my nephew, and that he would make a proposition of what was needed because he wasn't interested in me or Larry, it was Mr. Hoffa he was interested in, so if we would cooperate with him and it could be a direct link to Mr. Hoffa, I says, "I don't know how it would ever be and I am working in the drycleaning plant in Nashville and not even a union member."

Q On any of these times when you had these con-

ferences with Mr. Sheridan or any other gentleman like Sheets or anybody else who spoke to you on behalf -- as of the government, as they told you -- did you tell them you didn't know Hoffa?

A I certainly did.

Q Did you explain you didn't know the other co-defendants except for your nephew Larry Campbell?

A I don't believe that any other of the co-defendants was -- that I were asked about them, I don't believe, I don't know, I can't think at that present time, all the pressure was just on me, I don't think that as a newspaper went there was nobody mentioned at that time but me and Mr. King.

Q Yes. And so far as Larry Campbell is concerned they only mentioned his name, did they?

End 35a
36 fls

A Yes.

Q And Mr. Hoffa, they only mentioned his name. Is that correct?

A Yes. That's right.

That is in reference to the defendants that are here now. You remember I mentioned the list of names Mr. Sheridan wrote out?

Q I see. And from the time you had your first talk with them to the present time, you said you refused to lie on anybody?

A That's right.

MR. SCHIFFER: Your witness.

THE COURT: Any further examination of the witness by counsel for the defense?

MR. HOOKER: Any questions by any other defendants?

THE COURT: Any cross examination by the government?

MR. HOOKER: Yes, sir.

MR. SCHIFFER: One moment, please, Mr. Hooker.

MR. HOOKER: Is that all, Mr. Schiffer?

MR. SCHIFFER: Yes, sir. Thank you, Mr. Hooker.

CROSS EXAMINATION

BY MR. HOOKER:

Q What did you say your relation to the Defendant Larry Campbell was?

A He is my nephew, Mr. Hooker.

Q And what does he do?

A How do you mean?

Q Is he connected with the Union in Detroit?

A Yes, sir, I think he works for Local 299.

Q Have you ever been a member of that same union?

A Never have.

Q You didn't work previously in Detroit? And were not a member of the Teamsters Union?

A I worked in Detroit but I wasn't a member of any union except during the World War II period. I worked at Boeing Aluminum Company and I was a member of the AF of L-CIO.

Q But you have never been a member of the Teamsters Union?

A Never have.

Q Where do you live in Nashville?

A 2408 Clifton Road.

Q Where do you take your meals?

A Well, at Mrs. Mattie Mix's house, 3203 Indiana.

Q Do you take all three meals there? Or just breakfast and supper, dinner, how do you do that?

A Well, sometimes I come in for lunch. Sometimes I take lunch with me after breakfast and don't return until after supper.

Q Sometimes you have your breakfast and get her to

fix your lunch and take it with you?

A That's right.

Q And then don't come back until supper time that night?

A That's right.

Q And that is what you were doing back in the period we are interested in here, in October, November and December, 1962?

A Let's put it this way, Mr. Hooker, I think that is what I've been doing since 1960.

Q You've been doing that, living at the same place and having your meals at the same place?

A That's right.

Q What did you say you were doing? What sort of employment were you following?

A Well, now, I work at the funeral home there at the same place I live, 2408 Clifton Road.

Q Work where?

A Smith Funeral Home, 2408 Clifton Road, the same place I live at.

Q Where were you working in October, 1962?

A I were working for Colony Cleaners, that is in Nashville, Tennessee.

Q Sir?

A That is in Nashville, Tennessee.

Q What were you doing for them?

A What type of work was I performing there?

Q Yes, what type of work?

A Wool finisher.

Q Now, did you know Carl Fields?

A Not until I seen him on this witness stand and I still don't know him.

Q Do you know his father, Gratten Fields?

A No, sir, I don't. Never met him. Not to my knowledge.

Q Did you know his father, Gratten Fields, who was on the jury?

A No, I didn't, sir, not until--

Q (Interposing) In Mr. Hoffa's case?

A No. No, I didn't.

Q You never knew that?

A No, sir, I didn't.

Q Now you say that James T. Walker, Patrolman James T. Walker came to see you?

A What time was that, sir?

Q Well, the first time about this case, about the case in Nashville.

A Walker never come to see me about this case.

Q Walker never did?

A Never did. I never said that, sir.

Q Did anybody ever talk to you about it?

A Well, I suppose everyone I knew or do know since newspaper publicity this man dismissed from the jury and I accused of trying to force him.

Q Did you give Carl Fields some money?

A Not as I knew him as Carl Fields.

Q Sir?

A Not as I knew him as Carl Fields. I gave a man some money that Walker asked me to hand to him.

Q That is what I say.

A That is what I'm talking about.

Q That is what I'm talking about, when did you claim that Walker the first time came to see you about it?

A I never claimed that Walker came to see me.

Q When did you have the conversation with him about the giving of somebody some money?

A I don't remember the date it was that I run into Walker. I don't know what time of day it was. I was on my way home. I do remember that. He asked me if I wanted to make some money? And I told him, "Yes, I'm always interested."

Q Was this on the street?

A That was on the street. He said, "Come by my place about five this afternoon."

Q His place of business?

A His place of business.

Q And did you do that?

A I did that.

Q And then you say did he give you the $100.00?

A He explained to me what he wanted to do first. He told me that he was on special assignment. I knowed he was a police patrolman. And he told me he was on special assignment for the government. And he had some, said he wanted to keep as much secret about it as he could.

36A

Q Now, while you were there at Walker's house, did someone you later known to be Carl Fidds come to that house?

A When did I tell you I was at Walker's house?

Q Where were you, did you ever go to his house?

A Walker's place of business.

Q On the street, where did you see the man that you gave the $100.00 to?

A The man that I seen told, "Tom, this is Carl." I seen him at Walker's place of business on 23rd and Osage in Nashville.

Q When was that, the next day? Or how long after the--

A (Interposing) That was around six-thirty or seven o'clock. I had talked to Walker at five because I left there and went back home and eat my supper.

Q What was the man's name that you gave the money to?

A Walker introduced me, said, "Tom, this is Carl."

Q Carl?

A The man I was telling you about. Said he had gone out. That is what I have already talked to him about.

Q And then--, how did you go to Nash--, how did you go to Walker's place of business that night?

A Well, I made two trips that particular day, each time I used my car.

Q I mean, did you go in a car?

A Yes, sir.

Q What sort of automobile did you have?

A I had a 1956 Buick at that particular time.

Q And what color was it?

A It was green and white.

Q What?

A Green and white.

Q Green and white, two-toned car?

A That's right.

Q Now, then, did you go out into the car there and talk to Fields?

A I did, sir.

Q In this two-toned green car?

A That's right.

Q And did you tell him, ask him if his father was on the Hoffa jury?

A No, I did not.

Q You didn't ask him that?

A No.

Q Then--

A (Witness moves head from side to side.)

Q Did you ask him how close he was to his father?

A I didn't even know his father so I wasn't interested in how close he was, Mr. Hooker.

Q Do you mean to tell these ladies and gentlemen of the jury you had no idea then what you were talking to Fields about?

A I had no idea. I knew Walker was a policeman and, do you suppose, well, I don't know, but I wouldn't think that Walker would have been engaged in anything with me or anybody else trying to tamper with the jury.

Q What did you think that you were giving Carl Fields out there in your car across the street that night you gave him $100.00, didn't you?

A I certainly did, sir.

Q What did you think you were giving it to him for?

A For giving Mr. Walker the information he wanted was what I was told.

Q And what information was it that he wanted?

A He wanted to know the clothing that his father would wear each day when he left home.

Q His father was wearing each day when he left home?

A That's right.

Q To go sit on the jury?

A I don't know where he were going.

Q Do you mean to tell these ladies and gentlemen that you didn't know that his father, Carl Fields' father, was on the jury and that that was the purpose of giving him the money?

A That, go at that this way, Mr. Hooker, I don't know anything of that fact and I wouldn't have any way of knowing whether he was on the jury or not.

Q And you had no idea that Carl Fields' father was on the jury?

A I keep repeating that.

Q All right. And so you gave him, how did you give him this $100.00?

A I gave it to him just as Walker gave it to me.

Q Well, I understand that, what denominations of bills was it in?

A I think Walker gave me five, six, twenty-dollar bills and with a five.

End 36A

37 fol.

Q Six twenty dollars and a five?

A Um-hmm, I believe that is about what it was.

Q And that is a hundred dollars?

A I think that's a hundred twenty-five dollars, isn't it?

Q A hundred and twenty-five, is that what you gave?

A No, the twenty-five dollars was mine.

Q And so you kept one of the twenties and a five?

A That's right.

Q And gave the Fields boy five twenties?

A That's right.

Q In the car?

A (Witness moves head up and down.)

Q Did you have any discussion about what he should do, what he was to do in consideration of the money, what he was to find out? What did you tell him to find out for you?

A Well, when I got back -- you want me to explain it, just answer that question?

Q Yes, go ahead and explain it.

A When I got back about 6:30 or 7:00, well, this fellow, as I say, was there and I just assumed that Mr. Walker had told him all of the details of what he wanted did and so when he told me to take -- said, "Tom, I have talked already to him. You talk to him out in the car." There was two or

more fellows in the house, I mean in his place of business there, so we went on out to the car and I said, "Well, I know Mr. Walker has talked to you and I am supposed to give you this for your troubles."

And he said -- well, I suppose after he seen the money, well, maybe he was, well, a little bit interested, I guess, what -- in whatever Walker wanted him to do.

Q I didn't understand that.

A Huh?

Q I didn't understand your last statement there. What did you say?

A I said, then I gave him the money, "Mr. Walker wants me to give you this for your troubles in helping him out."

And he said, "Well, what am I supposed to do?"

I said, "Well, you are supposed to let me know as soon as possible and then I can let Mr. Walker know what you said."

And he said, "Well, how would I let you know?"

I said, "I will give you my phone number." I did, I told Mr. Walker I gave him my phone number.

Q But you had no discussion with him at all about him finding out what his father was going to wear to court the next morning?

A Well, you see, I assumed that Mr. Walker had told

him all of the details of this thing.

Q You assumed that Mr. Walker had, the Patrolman Walker had done everything, told him everything, made all of the arrangements with him except handing him the money?

A I assumed that.

Q And that that was your part in it, was just to go across the street there and get in the car and hand him the money?

A Well, don't you understand, Mr. Hooker, that I just said to the man I was supposed to give him my phone number and he was supposed to call me and give me the information that Mr. Walker wanted.

Q And did you know what information you were going to get?

A Well, yes, I guess, yes, he told me he were going to tell him what kind of clothes his father would be wearing.

Q So you did know then that that is what he was to do, was find out what sort of clothes his father was going to be wearing the next day?

A I think I have testified to that before.

Q Why, didn't you say that you didn't know what information he was to get, that you assumed that Walker had told him that?

A I don't remember me saying that, I might have, I am not going to deny it.

Q All right.

A I testified that what the situation was to begin with.

Q Do you deny it now? Didn't you discuss with Carl Fields when you got over there in the car and handed him this hundred dollars that he was to find out what his father was wearing the next morning and call you?

A No. The proposition was that he was to -- supposed to find out that night what his father would be wearing the next day.

Q And you discussed that with him?

A And he was supposed to call me later that night.

Q And tell you that night what his father was going to wear?

A And I would deliver the message to Patrolman Walker.

Q And you did know then that he was to find out what his father was going to wear and he was going to call you that night and give you that information?

A That's right.

Q But you claim you didn't know that his father was on the jury?

A I still say that.

Q All right. Now, did you say to him that night, "Well, you know Bobby Kennedy is out to get Mr. Hoffa"?

MR. SCHIFFER: Objected to, there's no such testimony that night.

THE COURT: Overrule the objection.

MR. SCHIFFER: Mr. Hooker is referring to any document, your Honor, I wish you would let us know because the way he put the question was did this witness testify that way now.

BY MR. HOOKER:

Q When did you -- did you see Fields any more after that?

A Yes, sir.

Q When is the next time that you saw him?

A Sitting right here.

Q Right here in this courtroom?

A That's right, the man that was identified as Carl Fields, I didn't know him as Carl Fields then.

Q Now, then, did you go back and have a further conversation -- well, before I ask you about that -- in your conversation with Fields I want to ask you if you didn't state to him that if he could talk to his father that it would be $5,000 apiece in it for you?

A No.

Q You never did tell him that?

A No.

Q You deny that?

A I do.

Q That is, $5,000 for Mr. Gratin Fields on the jury and $5,000 for his son, Carl Fields?

A Mr. Hooker, I might tell you that any $5,000 that I am going to handle for anybody is going to be first my $5,000.

Q First yours?

A That's right, I have never -- oh, no.

Q In other words, you wanted at least part of that?

MR. SCHIFFER: Objected to. He didn't say that.

Ed 37
37 a fls

Q Didn't you say, didn't you say to him, didn't he say to you that he still couldn't talk to his father about nothing like that and you said that you meant $5,000 to him and $5,000 to his father?

A No, sir.

Q You deny that?

A I do deny that.

Q Now, then did Carl Fields call you?

A No, Carl Fields didn't call me. You are speaking about this same night?

Q Yes.

A That I--the only night I seen him?

Q Yes.

A No, he didn't.

Q Well, did he ever call you back any more after that?

A He never did.

Q Did he call you back and tell you that he couldn't find out what kind of suit he was wearing, going to wear tomorrow and didn't he offer to give you the hundred dollars back?

A No. You see, he didn't call me back, Mr. Walker called me.

Q You never did call him?

A Asked me had I heard from Carl.

Q You mean Carl Fields never did call you back?

A (Witness moves head from side to side.)

Q And Walker called you back?

A Um-hmm.

Q And what conversation did you have with Walker?

A Well, I told him I hadn't heard from him and he said he had to find out what he were going to do. He gave me the number where I could reach Carl and told me to call him.

Q Did you call him?

A I did.

Q Did you have a conversation with him?

A He answered the phone. I asked to speak to Carl because I didn't recognize his voice, I hadn't spoken to him on the phone before, and then I told him what Walker said, he had to find out what he were going to do so he would know and he said that he had talked to his mother about it and not knowing the circumstances of the thing, what it was all about, he didn't think he wanted to have anything to do with it.

Q That's what Carl Fields said to you?

A That's what he said, "I'm willing to give you this money back."

I said, "Well, it's not my money, it belongs to Mr. Walker." I said, "You give it back to him and I will call him and give him your message."

Q Did you give that message to Walker?

A I certainly did.

Q Now, then did you go back to see Walker after that and go out to the place where the daughter of Gratin Fields was working?

A Well, actually I still don't know where the daughter of Gratin Fields works.

Q You claim that you never did make a trip out there to where Mattie Leath, Miss Mattie Leath was working at the Wesley House Community Center in Nashville?

A If you are referring to the J. K. Napier Home in South Nashville.

Q That's right, J. C. Napier Community Center.

A I went with Walker, I certainly did, he didn't have any means of transportation and he asked me would I make a trip for him and I carried him over there.

Q Carried who, carried Walker there?

A Mr. Jack Walker, Patrolman Walker.

Q Did he get out of this same two-toned Buick car and go in?

A Yes, he did.

Q How long did he stay inside?

A I would suppose around 10 or 15 minutes, I couldn't be exact because I wouldn't know the time.

Q And then did you take him back to town?

A I taken him back to his place of business. I asked him did he want to stop any place else and he said no, he wanted to go back.

Q Did Walker tell you that he had had a conversation with Mrs. Mattie Leath about her father being on the jury?

A No, he did not.

Q Did he tell you what he wanted to go out there and see her about?

A No. I suppose if he wanted me to know he would have asked me to come in with him.

Q How long was this now after your conversation with Carl Fields?

A Well, I suppose it was at least eight or--or possibly ten days, I don't know exactly because it wasn't important to me no way.

End Tk 37A
Tk 38 fls.

Q Do you think that it was eight or ten days between those two things?

A I believe it was. I couldn't be positive about that.

MR. HOOKER: If Your Honor please, I want to get into an entirely different area here. I notice the hour of adjournment has about arrived.

THE COURT: All right.

MR. HOOKER: I think it would be simpler to do it tomorrow.

THE COURT: All right. Ladies and gentlemen of the jury, we will excuse the jury at this time. The same instructions you will remember, do not discuss the case or allow anyone to talk with you about it. Be back at nine-thirty tomorrow morning.

MR. SERTEL: Your Honor, do you mean at nine o'clock?

THE COURT: I mean at nine o'clock. Sorry. Nine o'clock tomorrow morning.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom, and in their absence, the following proceedings were had, to-wit:)

THE COURT: All right, Mr. Fields, you may step down? Mr. Parks, excuse me.

THE WITNESS: Parks.

THE COURT: Excuse me. Mr. Parks.

(Witness temporarily excused.)

THE COURT: All right, gentlemen, the motion and memoranda was filed on Monday by Mr. Pitcher and by his attorney, W. M. Shaw, in regard to a subpoena served upon Mr. Pitcher. The Court is of the opinion that that subpoena is entirely too broad and that in accordance with that, the motion should be quashed.

MR. HAGGERTY: May it please the Court, I would like a hearing on that. I have a memoranda that is already prepared. I didn't know when Your Honor was going to take it up.

THE COURT: All right. I will reserve any action on this and consider the memoranda overnight. Take the matter up in the morning. Mr. Dale, are all exhibits accounted for?

THE CLERK: Yes, Your Honor.

MR. HAGGERTY: May I have oral argument on this Pitcher matter in the morning, Your Honor?

THE COURT: Yes, sir.

MR. BERKE: So the matter will be clear, if Your Honor please, I understand the response by the government to the telephone interceptions and so forth should be by nine o'clock in the morning?

THE COURT: Well.

MR. BERKE: I understand that is the Court's ruling and I just don't want to be any misunderstanding about it.

MR. NEAL: Your Honor, it seems to me that this matter has been cleared up considerably today. What is there to respond to?

MR. BERKE: We have the written motions, if Your Honor please.

THE COURT: There were motions that were discussed as I recall immediately after the noon recess today. And the government should consider those motions this evening and either file a response to them in the morning or advise the Court if additional time is needed to file responses.

MR. SCHIFFER: I meant to inquire about Friday, Your Honor, is the Court in session on Friday?

THE COURT: Yes, we will be in session on Friday. If there is nothing further at this time, let's adjourn court until nine o'clock tomorrow morning.

(Thereupon, at 4:35 o'clock p. m. court was adjourned until 9 o'clock a. m., February 19, 1964.)

REPORTER'S CERTIFICATE

I, Fred B. Downing, Official Court Reporter for the United States District Court, for the Eastern District of Tennessee, Southern Division, at Chattanooga, Tennessee hereby certify that Richard Smith and John E. Hamlin, court reporters, in accordance with stipulation of counsel for the parties filed in this case, recorded by machine shorthand the proceedings had in open court in the above styled case on February 18, 1964; and that said proceedings were reduced to typewriting under my supervision; and that the foregoing transcript is a true and correct transcript of the said proceedings to the best of my knowledge.

This the 18th day of February, 1964.

Fred B. Downing

Official Court Reporter

JR HoFFA

IN THE DISTRICT COURT OF THE UNITED STATES

EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

Bufalino

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff.	:	
	:	
vs.	:	NO. 11,898
	:	
	:	
JAMES R. HOFFA, ET AL,	:	
	:	
Defendants.	:	

Date: February 13, 1964

Chattanooga, Tennessee

Before: Honorable Frank W. Wilson, Judge

OFFICIAL TRANSCRIPT OF PROCEEDINGS

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DEFT. COPY

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TRIAL EXHIBITS

NUMBER	DESCRIPTION	For Ident.	In Evidence
145, Def.Hoffa	Subpoena	4964	
146, Def.Hoffa	Subpoena	4964	
147, Govt.	Court Document (Mizell)	4969	
148, Govt.	List of Jurors in Nashville case (Mizell)	4969	4977

NINETEENTH DAY OF TRIAL

9:00 O'Clock A.M.
February 13, 1964

(Thereupon, pursuant to adjournment from February 12, 1964, court was in session.)

(The jury of twelve and four alternates remained excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

THE COURT: Gentlemen, there are two or three corrections in the record that it would appear should be made.

Mr. Silets called attention to a reference in the record at page 2215, Volume 10, in the examination of the witness Miss Pettijohn wherein the name of Mr. Dorfman was used in the question. It may have been that the questioner used the name Dorfman, I think it is quite apparent from the record, however, that the conversation in the questioning was about Mr. Tweel.

Without there is some objection from some party it would appear to the Court that the name Mr. Tweel should be inserted in that question.

MR. HOOKER: We think that is correct, if your Honor please.

THE COURT: Allow that correction to be made. On page 4652 of yesterday's transcript at line 11 the Witness

Partin, in referring to a letter, says, "I don't remember the letter as such. This is some of J. D. Albin's and the senate group."

It was the very definite recollection of the Court that he meant the witness said the dissent (spelling) d-i-s-s-e-n-t.

MR. BERKE: No.

THE COURT: All right, it is the recollection of the Court that he said, "J. D. Albin and the dissent group that they passed around."

Does any counsel have any definite recollection?

MR. HAGGERTY: I had a recollection it was senate, your Honor.

THE COURT: All right.

MR. HAGGERTY: He is talking about a senatorial committee.

THE COURT: All right. The Court had previously corrected, I believe it was at Mr. Silets' suggestion, the word "lifted" for the word "list" at page 4605, is that correct? We did that yesterday.

At page 4904.

MR. HAGGERTY: What page is that, your Honor?

THE COURT: Page 4904, line 3. The Court indicates that the Court, "In other words, obviously, Jim." Well, the Court has never used a name, the Court said, "Gentlemen," in

referring to counsel in the case. The Court has never used a first name in addressing any counsel in any court.

Then on the same page at lines 21 and 22 when Mr. Haggerty was referring to the subpoena duces tecum Mr. Haggerty as the Court rather clearly recalls, was referring to harassment instead of arrestment as used in the record. The Court is not at all familiar with the word "arrestment" or what it may signify.

MR. HAGGERTY: I say I used the word harassment.

THE COURT: Harassment?

MR. HAGGERTY: Yes, your Honor.

THE COURT: Harass?

MR. HAGGERTY: Yes.

THE COURT: Allow that to be corrected on both lines 21 and 22.

End 1
2 fls

THE COURT: With regard to the written motion filed upon yesterday by Mr. Silets to strike the telephone records as not having been made in the regular course of declarants business, it is the opinion of the Court that that motion should be overruled. The Court has read the Grayson case therein referred to and in addition has read a number of other cases including the case of Reynolds versus U. S. at 225 Fed. 2d 123.

Duncan versus U. S. 197 Fed. 2d 937.

Indiviglio (Spelling) I-n-d-i-v-i-g-l-i-o, Indiviglio versus U. S. 249 Fed. 2d 549.

United States versus Gallo, (Spelling) G-a-l-l-o, U. S. verus Gallo, 123 Fed. 2d 229.

The written motion filed upon yesterday by the defendants, Supplemental motion to dismiss the indictment for denial of due process, filed by Mr. Berke, as attorney, the Court is of the opinion should be overruled.

With regard to the motion to quash the subpoena duces tecum upon the witness Bennett, the Court is of the opinion that that motion should be sustained and the subpoena quashed; by no stretch of the imagination are we here examining the general financial condition of the Local No. 5.

That subpoena should be attached as an exhibit to the motion. If the clerk will file that subpoena and file it in the court file as an attachment to the motion.

THE CLERK: Filed as of yesterday?

THE COURT: Yes. All right, are we ready to proceed, gentlemen?

MR. HAGGERTY: One other matter, may it please the Court.

MR. NEAL: The government has a matter, too, Your Honor.

THE COURT: All right.

MR. HAGGERTY: I desire to file this morning what I marked Exhibits No. 21 and 22, and are pictures. I haven't copies, pictures pertaining to the issue of surveilance. I ask that Your Honor instruct the clerk to put them in the envelope that is marked "A" to "H" which are photographs and include them in there, one to twenty-two.

THE COURT: Yes, sir.

MR. HAGGERTY: And I move the Court at this time that we have a hearing upon our principal motion for surveilance.

THE COURT: All right, Mr. Haggerty. The Court will allow a hearing upon that motion at the time heretofore indicated that it would be heard.

MR. SCHIFFER: Your Honor--

THE COURT: (Interposing) Yes, Mr. Schiffer.

MR. SCHIFFER: I have a matter I would like to address to the Court on behalf of Mr. Parks. With reference

to the quashing of the subpoena which Your Honor has just overruled the defendants motion, in the event Mr. Parks does not have the benefit for the purposes of further cross examination of the witness Partin, he is deprived of the very material which either buttresses or in and of itself denies the direct testimony and part of the testimony on cross examination thus far of the witness Partin, and this information actually goes to the credibility in a very serious manner to the witness Partin, then the Defendant Parks being deprived of every last vestige of any evidence which is obtainable by legal process to maintain this case in a constitutional weight and show the defense to the satisfaction of the Court and jury.

That insofar as Mr. Parks is concerned if Your Honor's ruling will not be changed, then at this time I move on behalf of Mr. Parks for a mistrial and dismissal of the indictment on the grounds that the government now will be in a position to suppress the very evidence which is exculpatory insofar as Mr. Parks is concerned on the issue of cross examination as to the credibility of Mr. Partin and for that reason, Your Honor, I believe it would be grossly and manifestly unfair to deprive Parks of the very material in the possession of the third party not interested in this suit, where the material itself will make a liar and perjurer out of the government's star witness. I don't see any concept

2-4

of law under which the Defendant can be deprived of this very subject matter.

End 2
Tk 3 fol.

This is not something which was under the control of the Defendant Parks. It is something which arose as a by-product of the great surprise witness produced by the government.

Now, under those circumstances, we should not be deprived of the right to further cross examine Mr. Partin or to put in evidence materials of the union itself which show that he is a liar and a perjurer and if this Court permits the question of the subpoena as far as Parks is concerned Parks is deprived of setting up his defense here and we would like to know the theory of law for the record, at least, under which he is being deprived of this vital material.

We are not seeking what the financial condition is of the local, your Honor. That is not the purpose we asked for a subpoena, or any of the defendants. We could find the material which will indicate that this Witness Partin committed perjury in this court and if we are not permitted to produce that kind of evidence then I don't know what kind of a trial is called a fair trial any more.

THE COURT: All right.

MR. HAGGERTY: May it please the Court, I adopt the motion made by Mr. Schiffer and I desire to add this to it. Mr. Partin was a surprise witness. The defense had no reason to anticipate that Mr. Partin would be produced and testify in the manner he did.

Now, these are the records of his union. We are certain that some of those records of the union will contradict Mr. Partin, impeach him. Now, these rules, Federal Rules of Procedure, are not made inflexibly, they are flexible rules and under the situation that developed and the factual situation particularly in this case we are deprived of a substantial part of our defense and the right to impeach based upon documentary proof and, therefore, your Honor's ruling this morning leaves us deprived, limited and restricted of a portion of our valid proof that we should have for our defense and, therefore, I ask for a mistrial at this time.

THE COURT: Overrule the motions for mistrial on behalf of each party. I think the scope of the subpoena speaks for itself. The Court has indicated we are not here trying the financial condition of Local No. 5.

MR. HAGGERTY: Well, may I inquire of your Honor, is it the scope of the subpoena that caused you to reach this decision?

THE COURT: Well, I have so indicated, Mr. Haggerty, that the subpoena asks for all financial records of this union over a period of time and we are not here trying the financial condition of Local No. 5.

MR. HAGGERTY: No, but we are here trying the credibility of the Witness Partin and if those records

should disclose on examination, that is why we had the subpoena returnable at this early date, it was our sincere belief that your Honor would order the Clerk to impound those records and make them subject to inspection by the Defendant Hoffa, therefore, under your Honor's ruling we are literally cut off, we are restricted and we are limited by your Honor's ruling.

THE COURT: Now, the Court did not issue the subpoena. The Court did not state the extent of the subpoena. I have ruled in accordance with the case law on this matter. If defendants can cite me any authority I will be glad to consider it.

MR. BRANSTETTER: May it please the Court, I did not issue the subpoena. I inquired about the issuance of the subpoena prior to its being issued.

The Court will recall that several days ago, representing the Defendant Campbell, that I complained rather bitterly to the Court that we were not permitted to go into the question involved insofar as this defendant--this Witness Partin said he was in Atlanta on certain days. On yesterday I inquired rather specifically, and I thought at times very relevantly, as to where this witness had been for the 60 or 70 days that he contended he had been away from his local, but yet being paid by his local and having expenses charged to the local.

The purpose of this was to determine his whereabouts first, then to go further and determine what he was doing when we had determined his whereabouts.

Now, I know of no way that this factual matter can be determined if the records of this particular union are suppressed and I inquire of the Court now as to whether or not if another subpoena was issued whether or not we must then be faced with the same proposition again because it's the only way that we can contradict this witness and I am sure he can be contradicted in some particulars.

THE COURT: Well.

MR. BROWN: If the Court please.

THE COURT: Yes.

MR. BROWN: Excuse me.

THE COURT: Yes, Mr. Brown.

MR. BROWN: On behalf of the Defendant King we adopt these objections so far stated and we would like to say further that by the quashing of this subpoena in reality, if the government now contends, as they have throughout this trial, that they have no records of expenses upon which they have paid this money, then we firmly believe that those records are in the possession of the local union and that they are the only way we can either show the government knew or what they drew these vouchers upon and not only that, this witness has left the inference with this jury throughout

the trial that he had the sanction and the approval of his union in what he was doing and the expenses he was paying out of his local treasury.

Certainly Mr. King has nothing to do with the financial status of Local No. 5, but he does, as a Teamster he has his--his rights have been jeopardized under the testimony of this witness and the Court's ruling that we couldn't go into it any further, but the Court has ruled that the government should produce vouchers.

End Tk 3
Tk 4 fls.

Now, if the government takes the same position as they have on some of these Jencks statements that the agents have torn them up after they got through with them and summarized as they saw fit, then certainly we are deprived now of what the truth records will show and the only records that we can either verify or refute what the government said is being allowed to be taken back to Louisiana, for what purpose we don't know.

MR. SILETS: May it please the Court, your Honor, it seems to me, has the power to amend this subpoena on its face if the Court feels that the scope is too broad.

I gather that is the basis for the Court's ruling. The Court could limit the production of the documents to those which relate exclusively to Mr. Partin if that is the Court's disposition. I do also wish to point out to the Court that every subpoena calls for testimony as well as possibly in the case of subpoena duces tecum, production of certain documents.

Now by the quashing of the subpoena the Court has effectively ruled that this particular individual cannot even testify. My motion to the Court is that the subpoena be amended on its face so that we don't have to go through the position of serving him again and tendering him more money and restricting it to the matters relating to the Witness Partin, the payments, financial payments to him and any and

all other matters called for in the subpoena which are related to Partin.

MR. HAGGERTY: May I inquire of your Honor, if a subpoena is issued and it is restricted, certain specified items pertaining to Mr. Partin --

THE REPORTER: Your Honor, I am having difficulty hearing Mr. Haggerty for the noise.

MR. HAGGERTY: May I inquire of your Honor that if a subpoena is issued limited and restricted to Mr. Partin, as to his expense account, as to the resolution, as permitting him checks, vouchers, travel expenses, and it is confined to the months of October, November, December 1962, would your Honor approve such a subpoena?

THE COURT: Well, Mr. Haggerty, I could not rule in advance upon that but I would say that any subpoena issued that was limited to the relevant issues of this lawsuit would appear to be a proper matter. I couldn't rule upon it until a subpoena was presented before me or any issue was presented; I couldn't rule in advance upon it.

MR. NEAL: Your Honor, I assume that the ruling on the subpoena will not affect the relevancy of the evidence as far as the government is concerned. We're not a party to the subpoena. But I would point out to your Honor that the defense cannot create these collateral issues on cross examination and then proceed to tear them down, build up a straw man

and tear it down just like a dog with a rag doll.

If the man on cross examination says, no, I was not in Switzerland when he is testifying about a murder in Tennessee, I was not in Switzerland in 1962, you can't go out then on the defendant's case and prove that he was in Switzerland in 1962 or in 1952 or some other year that is not in question.

Your Honor, those are all collateral issues the government will insist most frankly these are collateral issues not being gone into.

I can't imagine any issue with respect to union funds, et cetera, that would not be a collateral issue. All I want to do is make sure that the government's position in this matter was not ruled upon without the government --

MR. SCHIFFER: (Interposing) Your Honor, to keep the record abundantly clear, since I have made the motion, I ask your Honor to reconsider your position on the subpoena to see very finally the government takes the position with regard and in open court and on the record that when they put a witness on the stand for prosecution and the defense as a result of his own, very own testimony on direct and cross, the defense then finds that there is an area in which they can secure material written records of the past, concerning this very witness, and that if the defense can obtain those records, and they will show that the star witness of the

prosecution actually committed perjury before your Honor, they say no you cannot refute his statement because that is a collateral issue.

Now, let's say and let's take an example here, despite what Mr. Neal says is the law it never has been because what he says is the law, Judge --

THE COURT: (Interposing) Gentlemen, really, are we at that point? That is a matter that may or may not arise in this lawsuit.

MR. SCHIFFER: It is going to arise, your Honor, and I say to your Honor right now you have now effectively closed the door to the defenses of Mr. Parks. First, to continue with this case now in view of the testimony of Mr. Partin, Mr. Parks is effectively denied a fair trial. I am trying to show to your Honor that the position taken by the government is that which I said three weeks ago and four weeks ago and almost every day in this trial, that the government doesn't want the defendants to have a fair trial. What I'm saying to your Honor is simply this, this if Partin is permitted to go home, that is, if the Witness Bennett is permitted to go home, with the very records that show that Partin committed perjury then the Court itself inadvertently has lent its own weight and prestige and very power to fulfill the desires of the government to deprive the defendant of a fair trial.

THE COURT: Now, Mr. Schiffer, the Court did not prepare the subpoena. The defense prepared the subpoena.

MR. SCHIFFER: Your Honor, I am not talking about the preparing of the indictment.

THE COURT: If you will cite the Court law, look at the face of the subpoena, and cite the Court some law to the effect that this subpoena on its face is not subject to being quashed I will be glad to consider the matter.

MR. SCHIFFER: Your Honor, may I point out to your Honor a line of cases I will supply them to your Honor, that even if a subpoena is in total error and I will go that far, that, however, the subpoena is made out, if the proper person named in that subpoena and the records that he is to bring actually appears before the Court, you see, and presents himself physically with the records, that since he is present before the Court, every defect in that subpoena is waived, particularly in a criminal trial. Now what I am saying to your Honor is simply this --

THE COURT: (Interposing) Do you have some authority for that?

MR. SCHIFFER: We are going to secure that and supply it to your Honor, but I am saying to your Honor now the witness is here, the records are here, how can the Court then at this time take the position and say to the defendants, well, even though he is here and the records are here to show

the government witness committed perjury, I am not going to permit it because the government says it is a collateral matter. What is this collateral matter, Judge?

THE COURT: Mr. Schiffer, the Court has not ruled upon the suggestion of the government in any collateral matter. There was a motion to quash filed by the attorney on behalf of the witness and the Court has ruled upon that motion and that motion only.

MR. SCHIFFER: Your Honor, so that motion may I respectfully point out what our argument is here, basically, I say to your Honor that these records will indicate as we understand they must that the witness for the prosecution has committed perjury in a serious degree insofar as the payments from the government are concerned, to him, to be a professional witness and a stool pigeon with the inventiveness of somebody assisting him. Now, I'm not going to put it on Partin alone, somebody helped him to do this job.

End 4
5 fls

And I think it's more than one party that helped him. Now, then when we find that there is evidence in existence anywhere in the United States that a government witness committed perjury, and I say, and I say this most respectfully, it is the bounden duty of the Court to make sure that the constitutional rights of a defendant are protected. That in cross examination--

THE COURT: (Interposing) Mr. Schiffer, let me ask you this question. You indicate that there are records of the United States that are material to this. Suppose that you had issued a subpoena to the United States Government to produce all financial records of the United States Government? Would you contend that subpoena was valid?

MR. SCHIFFER: I do not contend that would be valid but--

THE COURT: (Interposing) What is the difference between that?

MR. SCHIFFER: Here is the difference.

THE COURT: What is the difference in that?

MR. SCHIFFER: Yes.

THE COURT: What is the difference between that and asking the union to produce all of its financial records?

MR. SCHIFFER: Here is the big difference, Your Honor, number one, let me point out that in the first instance where it is the government of the United States it is so

gigantic in size that of necessity that kind of subpoena on its face is void; however, if what Mr. Partin says is true, you see that he did have the approbation to go and use union funds in the manner he says he used it, he has committed a criminal violation of law if he did it. That is point number one.

The Landrum-Griffin bill would be violated and that is what the Senate of the United States and the Congress of the United States, the Landrum-Griffin act, said is an illegal act.

Now, if he did what he said he did in the first instance, and it's true he has violated the law himself, and every officer who assisted him, including Mr. Bennett, has. That's point number one.

Point number two, that if the records do not substantiate what he said then he has violated another law. He has violated the law against perjury and those who assisted him for subornation of perjury.

How then, in the face of whatever he says, he violated a law and a Federal statute, can the Court here take the position where the defendants are on trial in a criminal case, of course, take the position where the witness is here, he brings the evidence and then the defendants are told, "Well, you can't even examine this man or look at the records which will show that this man committed perjury."

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How--, what is the purpose of cross examination? What is this sudden name for collateral issue? Is it everything a man that is cross examined on on the witness stand, everything is inquired of a collateral issue in that sense?

You ask a man, "Did you commit rape in Mississippi?" Is that collateral, really? Is it? The fact that he is under indictment here for a violation of the Landrum-Griffin act with 26 counts, what has that to do with this case? Let's be logical. If you want to carry it to the point of illogic, then why did the Court admit any evidence and testimony here about the violation of the 26 count indictment?

Why does that--, what has that to do with these defendants? They are not alleged to have assisted him in any way, he did that all by himself, but Your Honor admitted it.

Now, when we find we are at a crucial point, we are on cross examination on fresh new material, we can show this man committed perjury, now, for the first time Your Honor takes the position it's a collateral issue and that on cross examination or on direct proof we cannot put in the outright perjury of the government's witness.

This has never been heard of.

THE COURT: Mr. Schiffer, has the Court taken the position that anything is a collateral issue yet? If you will please point that out in the record.

MR. SCHIFFER: Then I misheard Your Honor. I thought Your Honor said--

THE COURT: (Interposing) Mr. Schiffer, just a minute. Mr. Schiffer, the Court has permitted you to argue more than, I believe, any counsel in the record in the four weeks that we have been in this trial and you cited, to the Court's recollection you cited one case. If you would, please, just cite the Court authority for the positions that you take. It would be much more helpful.

MR. SCHIFFER: Except for one feature of it, Your Honor. I am representing Mr. Parks, I am not representing anybody at this table. There are five or six other defendants. Their lawyers can take care of them the way they see fit but I have been thrown into a maelstrom here by the government bringing the indictment the way they did and I say from the inception it was illegal the way they threw him in with everybody else and different independent acts and I am forced to sit here half of the time listening to a lot of gooblety-gook while the government produces names which we never even heard of until we came to trial. My defendant doesn't know most of these people here but he suddenly finds himself in court. We are forced into a position where what the government now calls a collateral issue--, everything in this whole case is collateral so far as the Defendant Parks is concerned--, how can the court now say to Mr. Parks, "Well,

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though you are in a position now because of the government's witness committing perjury I am going to protect that witness and I won't let him be exposed to his perjury and now, Mr. Parks, you sit there and keep quiet. Don't put in any defense. You have no right to show Partin lies." That's the position we find ourselves in now, Your Honor, in every real sense. This is what I have been told just now for the final time. How can I sit and not say anything? You say I don't cite cases. Your Honor, there are rules of thumb in cases, there are rules of thumb in experience. What the government talks of--

THE COURT: (Interposing) I have a difficult time finding rules of thumb in books without some citations, however.

MR. SCHIFFER: I will tell you this, then, Your Honor, with due respect, thirty years of experience teaches somebody something. I have learned something and I don't have to show that one and one add up to two and bring in Einstein to prove that one and one make two. I have to assume certain things here that the government itself will not question, but I question their good faith right throughout this trial.

Now, I say insofar as this testimony, Your Honor, Your Honor has now effectively closed the door to the Defendant Parks who finds himself here unwillingly joined in an indictment with all of these other parties. You have now

5-4-6

said to Mr. Parks, "Sit and keep your mouth closed. Keep your lawyer's mouth closed, too, because even though there is a man who is alleged to have committed perjury for the prosecution I am going to let it in, you can't attack it." That is what I have been told just now in every real sense.

End 5
5A foll.

How do we defend a case here? I say that in itself is an attribute of an unfair trial. How do you want me to defend a man, your Honor? He doesn't need a lawyer here, he needs a pallbearer.

MR. HAGGERTY: May it please the Court, your Honor raised an issue to the effect that the subpoena is too broad and you cited an example if you subpoenaed the government. Now, let me advise you from my personal experience that under the Landrum-Griffin Act the government consistently says subpoenas on a union for all books and records for a certain period of time. That is the end of the subpoena.

Now, there has been a test case made of it in the United States District Court in Detroit wherein the trial judge ruled the subpoena was too broad and quashed it. It was taken to the Court of Appeals at Cincinnati and the Court of Appeals at Cincinnati ruled that under the Landrum-Griffin Act the government had the power to subpoena all books and records and naturally from then on they have used that. Further there was a case that arose in the District of Columbia under the very same issue and it went to the Supreme Court. The Court of Appeals ruled against us. The Supreme Court denied certiorari so the law is that the government has this power for broad subpoena.

Now, it doesn't only serve the government, I think the defendants particularly under the situation that has

developed in this case are entitled to consideration.

MR. SILETS: If your Honor please, the Court may be overlooking the theory of the defense here and the Court knows that when the case, if it should go to the jury, that the defense is entitled to an instruction to the jury concerning the theory of the defense.

Now, one of these theories is that this witness is testifying with an ulterior motive. He is testifying with the purpose of buying his own piece by testifying in the fashion that he has, he is insuring his own liberty that he is not going to be prosecuted or investigated and that pending charges may in fact be dropped against him.

Now, these records of the union will, I will not say may but will substantiate this position in that he, from his own lips, testified that he wasn't receiving a salary. Somebody was keeping him, somebody was paying his livelihood. He has already admitted the government paying the support payments that his wife was required to receive from him. With these records, if nothing else, and I am sure that these records and I know these records will disclose other matters concerning his own financial status, these the union, his method of living during the time the government was preparing him for this testimony.

Now, if your Honor please, as far as the Court's specific ruling this morning, if the Court is going off on the

tangent that the government, Mr. Neal is now considering --

THE COURT: (Interposing) The Court is not, I can save you time on that, the Court is not going off on that, the Court is not ruling upon relevancy or irrelevancy.

MR. SILETS: But exclusively on the scope?

THE COURT: It is ruling upon the scope.

MR. SILETS: Then I would assume if -- I believe it is being done at this moment -- a subpoena were to be issued to this man limiting the scope of these records to him exclusive that he would then fall within the ambit of the Court's ruling.

In light of that, may I suggest to the Court that this witness be directed to produce for the Court and give to the Clerk so that it may be impounded these records because I am sure that they will strangely disappear once the aegis of this subpoena is lifted.

Now, I am suggesting this, your Honor, in all good faith because of the hostility of this witness which is apparent. I suggest to the Court that while we are preparing and getting this limited in scope subpoena delivered and served upon this man that he be required to deliver to the Court for safekeeping these records because I am certain that unless some protection is given to those records we will never see them again.

MR. HAGGERTY: May I inquire of the Court, I

noticed that neither Mr. Bennett, president of Local 5, or his attorney were here this morning. Were they informed of the Court's ruling before?

MR. NEAL: The attorney was here this morning. I spoke to Mr. Hutcheson.

THE COURT: No one was informed of the Court's ruling until the Court came into the court this morning, Mr. Schiffer.

End 5a
6 fls

MR. HAGGERTY: That is Mr. Haggerty, your Honor.

THE COURT: I mean, Mr. Haggerty. All right. Are we ready to proceed? Call the jury and the next witness.

MR. NEAL: Your Honor, we do have a memorandum for the Court and for counsel for the defendants with respect to our witness after this one coming up, it will be Mr. Tippens. By the way, your Honor, at the recess we will bring in some voluminous records to turn over under the protection of the Clerk, we will try to answer this broad request of Mr. Silets. And, however, we will put, we will ask that the records be turned over to the Clerk. That the Clerk and one of our people be responsible for the records. If they wish to photostat them we have no objection to whatever they do with the records so long as we get the originals back.

MR. SCHIFFER: Objected to, your Honor.

MR. NEAL: So long as the originals do not leave the possession of the Clerk. That is our only suggestion with respect to these records we are turning over.

MR. SCHIFFER: Your Honor, the defense will not be satisfied with anybody representing the government puts a finger on any of those records because I tell you now, your Honor, and I say this with all sincerity to your Honor, I am afraid if they touched any of those records we would be lost.

MR. NEAL: We have them in our possession now,

Mr. Schiffer, they are right out there.

MR. SILETS: Your Honor, I can't understand the government's position that these records have to be turned over to the Clerk. It seems to me that my request, first of all, I asked specifically for specific records and based upon that specificity the Court directed that the government either turn them over or file some theory or case law on the proposition. They have done neither. They say that they are going to turn them over but--

THE REPORTER: Your Honor, I cannot hear Mr. Silets clearly for the noise.

MR. SILETS: They have had these records since the grand jury. We have had no opportunity to examine them. We have had no opportunity to file a subpoena with any of these organizations because we've been informed that these records were in the possession of the government. We filed a pre-trial motion suggesting that we--we have filed pre-trial motions, your Honor, suggesting that they turn over these very records to us and that they have not done so. We have been informed by the telephone companies and various other organizations whose records they have that they were in fact in possession of the government.

By that very means the government has withdrawn them from our observation. Now, at this late stage of the government's case when we are within one day or maybe even

afternoon of their closing, we are not even given the records. The government in all its benevolence decides they will turn them over to the Clerk.

Now, your Honor, I suggest this, that if they are of such a volume as Mr. Neal suggests, that we adjourn this case for three or four days and let us examine them. Then if they are as we expect they are relevant and pertinent to the cross examination of the various and sundry witnesses who appeared and testified, let us have the opportunity to use those in examining those witnesses and especially the Witness Partin.

But to turn over volumes of records to use, Mr. Neal's language, after he has had them since last March, and after they have been withdrawn from the public view, including our view and our possibility of subpoenaing them from these phone companies and who else, and now at this late stage of the trial to say we will turn them over to the Clerk and if they want to see them they will have to see them in the Clerk's office from 4:30 to five o'clock when the Clerk's office is open. It is ridiculous.

You can't use records, prepare a defense or use records intelligently on that basis.

MR. NEAL: Your Honor, with respect to the reason we want to turn these over to the Clerk, with reference to the cross examination of the Witness Partin, he was excused

permanently and your Honor called him back for a limited matter. The cross examination of Mr. Partin is concluded except as to that.

THE COURT: Gentlemen, Rule 16 very clearly provides that the order shall specify the time, place and manner of making inspection and taking copies or photographs and may prescribe such terms and conditions as are just. We have followed the practice throughout the trial of the case of the Clerk making these records available in the office just off the Clerk's office for the purpose of reproducing copies. And I see no reason why we shouldn't follow exactly the same procedure in this instance.

MR. SILETS: If that is going to be the Court's ruling I ask that the trial be adjourned for a couple of days so we can look at this volume. Your Honor knows we close at 4:30 here on several occasions then we have had girls who wanted to photostat things for us, the Clerk has a life to lead, too, he goes home at 4:30. From 4:30 to five o'clock is not time to be looking at this volume.

THE COURT: Well, you will arrange to have someone in the Clerk's office available for such time as the records be copied.

MR. NEAL: Your Honor, let me point out why I ask the request be specific and we will try to segregate them. Let me point out the request of Mr. Silets, quoting,

"I will go one step further, I will ask for all telephone records from all telephone companies, relating to any testimony that has been given so far and which is not in evidence.

Now, your Honor, I wouldn't even pretend to segregate from our telephone records that which would fall within the scope of this. I will read it one more time.

"I will ask for all telephone records from all telephone companies relating to any testimony that has been given so far and which is not in evidence."

Your Honor, that is a trap for any prosecutor who tries to answer that. How can you give, how can you tell whether telephone record relates to any testimony or not.

Once more. Once more.

"And I ask for any and all documents relating to any testimony of any witness concerning any material or relevant matter which is in the possession of the government by virtue of their possession and the issuance of their subpoena."

One more time.

"And I ask for any and all documents relating to any testimony of any witness concerning any material or relevant matter which is in the possession of the government by virtue of their possession and the issuance of their subpoena."

I wouldn't even presume to answer that, your Honor. So we will turn over our records to the Clerk.

MR. SCHIFFER: Your Honor, we should like an opportunity to examine these records because evidently the prosecution is going to put more witnesses on and we would like an opportunity to see what these records consist of so that we may have an idea for further cross examination of what we want to use.

MR. GRADY: Now, your Honor, for Mr. Tweel, I would like to point this out to the Court, this is our position, this is the position this sort of thing puts us in. If you will recall yesterday we said we had no objection to them introducing these records of these calls to Tweel if the would introduce all of them. This Witness Partin is really the only one that has accused Tweel of any wrongdoing. He said that Tweel made certain statements. We are in this position. We ask if they had put in certain particular calls, for instance, in December, and November, that would tend to substantiate what Partin says about calls to Tweel, what Partin says.

End Tk 6
Tk 6A fls.

Now they have given us a list of some of the records that we could not reach or get and one of those records, and one, I'm sure there are more, shows that there is one call on December 26th that was the reason we asked that all the calls go in, and that was three days after the end of the trial and by no stretch of the imagination could any insinuation be brought about that this call had anything to do with jury tampering or anything of that sort.

That is the position we are in on this. That we are handicapped on the proposition.

MR. NEAL: They are handicapped if they get all the records. I don't know what theyexpect to do. Here is our response to the request of Mr. Silets. We will be prepared to turn over the records to the clerk at the recess.

MR. HAGGERTY: May it please the Court, this is typical of a pattern that Mr. Neal designed and used in Nashville. Here we are given at a crucial time in the defendants case, we are given these mass of records. The government has had them in their possession all along. Now they wait until the crucial time when the full time of the attorneys are engaged in the trial, actual trial, and in the preparation at nights of the trial, then they bring in these records. We request, may it please the Court, adequate time to examine these records even if, even if the trial is delayed a day or two. Now the same thing was used in Nashville exactly,

around the 20th of December, in came 368 pounds of records.

Now, I say that that is entirely unfair and the defense should have ample time to examine these before they go further with any cross examination of witnesses to see what applies.

We should have had those long, long before this, Your Honor, by every rule of court.

MR. NEAL: They never asked for them, Your Honor, and Your Honor will remember if you look back at the motions and the government's voluntary response and turn-over of records, and they, may it please the court, they didn't even accept the records that we volunteered to them until the Saturday morning before the day--, Saturday morning before the Monday, the start of the trial, even though I wrote all all counsel a letter as far back as August, suggesting they come in then and get the records so the decks would be clear.

They came in as Your Honor will remember on January the 18th, and while we were in chambers having a conference they were all out here looking at the records and I have my copy and a certified copy of the letter I sent to them suggesting they go over the records earlier in August, 1963, the certified copy of that letter is in the file.

End 6A

Tk fol.

Tk 7
Hl

MR. SILETS: If Your Honor please, I argued some of these motions before Judge Gray and I recall distinctly even reading to this court part of my argument where I related the scope of what we needed under rules 16 and 17 and Mr. Neal, in his benevolence, decided he was only going to give us the records pertaining to the defendants.

We specifically asked for all of the records that they had submitted and the government, because of its generosity, decided it was going to give us part of that, feeling that is all we were entitled to now explains and comes to the court and says, "Well, because of your generosity of giving part of it you were reluctant and dilatory in giving the balance."

Well, as I recall in this very courtroom I read to Your Honor part of my argument to Judge Gray requesting all of these records and pointing out to Judge Gray, as I pointed out to Your Honor, that by the government's action they themselves have withdrawn from our view and the view of anybody else by process or otherwise these particular records. They have, in effect, suppressed that from us.

Now, Mr. Neal says, "Well, you didn't come in here until the Saturday before trial to look at your own records, though, that is, we, in our benevolence, decided to give you."

Well, Your Honor, it wasn't until the very end that we knew we were going to trial here, it wasn't until

after December 20th, 1962 (1963) that Your Honor moved the case to Chattanooga. Things were in a state of chaos and flux and we were at all times asking for a continuance of this trial.

Your Honor, Mr. Neal is now befuddling this record, trying to show and indicate to the Court and to the press how wonderful the government has been in this circumstance, but I think the record speaks for itself throughout this trial. Every tactic used by the government, and in my amazement from my experience as a prosecutor, every tactic has been not to see that the interest of justice be done but that they get a win.

Now, that is not the way to try a lawsuit, it's not a game, it's not a sporting event. Every man sitting here charged as a defendant has his liberty at stake. Mr. Neal doesn't have his liberty at stake. It may be a game to him but it's not a game to these people and it shouldn't be considered a game by the Court and I ask Your Honor if there is any measure of discretion involved here, I don't suggest that there is, that it should be exercised in behalf of the defense.

End 7
7A fol.

Now, your Honor, I say that if there is such a volume, a volume of records, we should be given ample and reasonable opportunity to examine them. And if Mr. Neal's suggestion is that there is a volume is correct, as we suspect it is, then we should have at least a couple of days to analyze and reflect and determine what use we can make of them in order to defend our clients.

THE COURT: Well, gentlemen, the Court will have to pass upon any request for time after it has further knowledge of what records we are talking about.

Allow the records tendered to be made available in the same manner for copying as have all records.

MR. NEAL: Of course, your Honor, you --

THE COURT: (Interposing) In the Clerk's office.

MR. NEAL: Ninety-nine and ninety-nine hundredths percent of these records are completely irrelevant. We would be happy to respond to any designation of particular records and turn them over. As your Honor will certainly appreciate, we can't respond to this other than just turning the records over, but practically all of them are completely irrelevant.

MR. BRANSTETTER: May it please the Court, of course, Mr. Neal is not the one to determine relevancy.

MR. NEAL: No, I can't determine, that's the reason I am turning them over to the Clerk under this request, I can't.

MR. BRANSTETTER: I believe, may it please the Court, also that the government was going to turn over to the defendants the vouchers or other records and memoranda showing payment to Mr. Grimsley and hence to Mrs. Partin. We haven't seen those records yet either and we want Partin held here to be subject to further cross examination upon the production of all of these records.

THE COURT: All right.

MR. NEAL: Your Honor.

MR. BRANSTETTER: Excuse me.

MR. NEAL: Your Honor, Mr. Partin was excused for cross examination with the exception, as I understand it, he was called back for a certain matter, that was a subpoena. Now, the Court asked clearly of everybody if they had any further cross examination. This recalling stuff, your Honor, I don't know what kind of gimmick it is.

MR. BRANSTETTER: I object to gimmicks, may it please the Court, I don't engage in gimmicks as such.

MR. NEAL: Well, Mr. Partin was excused.

MR. BRANSTETTER: I don't think Mr. Neal should be stating this.

MR. NEAL: Mr. Partin was excused, I will say. For some limited purpose he was called back but Mr. Partin was excused. Now, some of these other witnesses were cross examined and then they said, "We want to reserve cross examina-

tion."

Last night at seven o'clock the government was advised to have Jack Walker and Carl Fields here this morning at noon in a very imperious tone, that's what we are getting into as far as the Witness Partin is concerned there was no reservation to recall.

MR. BRANSTETTER: May it please the Court, I believe I inquired specifically of the Court on at least two occasions if the Witness Partin -- I believe the record will demonstrate this -- was being held and made available for further cross examination upon the government production of the records. I think that is almost a quote from two instances where I inquired of the Court on yesterday.

THE COURT: Well, the Court requested Mr. Partin to remain available for examination upon records introduced by government by the further witnesses. Whether there should be any further scope of cross examination, the Court will just have to pass upon that at the appropriate time.

MR. BRANSTETTER: Could I move to the preceding point just for reading four lines, may it please the Court, on the question of the subpoena to the president of Local No. 5 and refer the Court to Rule 17, Rule 17C of the Rules of Criminal Procedure?

They read thusly, "A subpoena may also command the person to whom it is directed to produce the books,

papers, documents, or other objects designated therein.

"The Court, on motion made, promptly may quash or modify the subpoena if compliance would be unreasonable or oppressive."

Now, so we request of the Court to modify this subpoena in such particular as the Court thinks that it would be oppressive or unreasonable under Rule 17C. We would also cite to the Court in re: Grand Jury Subpoena Duces Tecum, 203 Federal Supplement, page 575, and particularly page 578, that holds specifically in accordance with the statement just made to the Court on that particular ruling.

MR. SILETS: Your Honor, I think I have made the same motion about 20 minutes ago and the Court did not rule on it, and --

THE COURT: (Interposing) It is not the Court's position to word and form the subpoenas for any party in the case. They can word and form their own subpoenas.

MR. HAGGERTY: I call to your Honor's attention we have issued new subpoenas and to my knowledge Mr. Bennett was not in court this morning. Now, I think Mr. Bennett has left the jurisdiction. We are now placed in the position, because of your Honor's ruling in not commanding that he be in here in response to the subpoena until released by your Honor, that we are in position we have two subpoenas to Mr. Bennett and Mr. Bennett is out of the jurisdiction and that --

THE COURT: (Interposing) Well.

MR. HAGGERTY: There's a possibility of subpoenaing him in Baton Rouge.

THE COURT: Well, gentlemen, you gentlemen issued your own subpoena. I can only rule upon matters in the manner in which you yourself issue them.

MR. HAGGERTY: May it please the Court, I have subpoenas issued which we were unable to serve and I ask that they be marked as exhibits in the case. The original subpoenas we were unable to serve them.

THE COURT: Well, you may file whatever you wish to in that respect for identification.

MR. BROWN: Your Honor, may I inquire for the Defendant King, is it the usual procedure that a person subpoenaed by the Court is allowed to leave the jurisdiction of the Court prior to a ruling of the Court? As a matter of information, if this procedure has been allowed I think it should be explained to the Court.

THE COURT: Mr. Brown, the Court has no knowledge of anyone leaving this jurisdiction. On yesterday the Court was advised that the witness had not appeared and the Court was asked by you to issue a bench warrant. Then shortly thereafter the Court was advised that he was here, it wasn't necessary to issue a bench warrant. Now you advise the Court that you can't serve the subpoena. Now you advise the Court

that he is not here or that he has departed.

Let's proceed in the usual manner. Subpoenas have been served before and I assume they will be served again.

MR. BROWN: Well, your Honor, I would like to state for the record that to our knowledge the defendant was not in court before this matter was handed down by the Court.

MR. HOFFA: Witness.

MR. BROWN: I mean the witness was not here. It is my understanding that he was subpoenaed here until the Court turned him loose, and I don't think the Court had any knowledge that he was gone.

THE COURT: The Court has no knowledge whether he was here or whether he was gone or where he was.

MR. SCHIFFER: If he was actually gone then, your Honor, I believe the bench warrant should issue because he left the jurisdiction despite the order of the Court to be here until your Honor ruled.

Now, if he left before your Honor ruled in open court here today I think a bench warrant should issue for him because he is in direct contempt of Court. I ask that that be done at this time, your Honor.

I don't believe that anybody for the opposition should be permitted to play fast and loose with the District Court of the United States. If it is a fact that this man left before the decision of your Honor in open court here or

did not attend court here to find out what your ruling would be, then he is in contempt of Court and I think the Court should use, in the interest of justice, the long arm that it has with full discretion that anybody who receives a court order from this Court obeys it, but it's rather significant to me that the man apparently received some kind of assurance he could do whatever he wanted because he is there really in a sense for the prosecution and by the position taken by Mr. Neal yesterday trying to buttress the position of this witness, this recalcitrant witness, now we suddenly find he isn't here.

I ask your Honor to have him brought back here so he understands what the orders of this Court really are.

End 7a
7b fls

THE COURT: All right.

THE COURT: All right.

MR. HAGGERTY: Your Honor, while I ask these be marked as an original and a copy of the subpoena, may we make a record of them and hand them to the United States Marshal for service?

THE COURT: Yes, sir.

MR. DALE: Your Honor, the subpoena duces tecum to A. Donice Bennett is 145 and the subpoena--

THE COURT: (Interposing) Exhibit No. 145?

MR. DALE: Yes, sir. And the one addressed to Teamster Local Union No. 5 (custodian of records) and the same name is 146.

THE COURT: Have copies of those subpoenaes made then and file, allow copies to be inserted in the record.

(The subpoenaes referred to above in photostatic form to be furnished and marked Defendant Hoffa's Exhibits Nos. 145 and 146 for identification only.)

MR. HAGGERTY: Can we have a photo copy made first and insert that in the record in place of the original subpoena?

THE COURT: Yes, sir.

MR. HAGGERTY: Can you have photo copies made of these, please?

End Tk 7B
Tk 8 fls.

THE COURT: All right. May we have the witness called, the next witness, and the jury?

(Thereupon, the jury of 12 and 4 alternates were brought into the courtroom and the following proceedings were had, to-wit:)

THE CLERK: You've been sworn, haven't you?

THE WITNESS: Yes, I was.

ANDREW H. MIZELL,

a witness previously called by the United States of America, having previously been duly sworn, was examined and testified further as follows:

FURTHER REDIRECT EXAMINATION

BY MR. NEAL:

Q You are the same Mr. Andrew Mizell who appeared the first day of testimony, I believe, aren't you, sir?

A That is correct, sir.

Q You are the clerk of the United States District Court for the Middle District of Tennessee at Nashville, Tennessee?

A That's right.

Q And you had such capacity in October, November, and December, 1962?

A I did.

Q Is that correct?

A Yes, sir.

Q Now, sir, it has been testified that beginning October 22, 1962 in the trial at Nashville, Tennessee in the United States District Court in Nashville, Tennessee, entitled United States of America versus James R. Hoffa and Commercial Carriers, Incorporated, did you attend the trial of that case?

A I did, sir.

Q And did you observe the defendant on trial in that case?

A I did.

Q How many defendants were on trial?

A One.

Q Do you see that man in court today?

A Yes, sir.

Q Would you point him out?

A Mr. Hoffa.

Q Let the record show he is pointing out the Defendant Hoffa. Now, sir, how many Negro jurors were there on the jury trying that Hoffa case in Nashville in the Fall of 1962?

MR. HAGGERTY: We object to it as being irrelevant, incompetent and immaterial.

THE COURT: Overrule the objection.

THE WITNESS: One.

BY MR. NEAL:

Q One?

A Yes, sir.

Q One Negro male juror?

A That's right.

Q Do you know his name?

A Yes, sir.

Q What was his name?

A Gratin Fields.

Q Gratin Fields?

A That's right.

MR. BRANSTETTER: May it please the Court, we object to this evidence on the basis that this witness' testimony is not the best evidence. The best evidence would be the records of the Court and we call upon government to produce them because they will then show when he came on the jury and other related matters this witness could not testify to.

THE COURT: Overrule the objection.

BY MR. NEAL:

Q Mr. Mizell--

MR. BRANSTETTER: (Interposing) Of course, we take an exception because we call for the best evidence.

THE COURT: Now, would the records in any way reflect this matter, Mr. Branstetter?

MR. BRANSTETTER: This is what we would like for the government to show.

MR. NEAL: Of course, there is no record that I know of, Your Honor--

MR. BRANSTETTER: (Interposing) I object to counsel testifying.

THE COURT: Overrule the objection.

BY MR. NEAL:

Q Mr. Mizell, when was Mr. Gratin Fields on any published list as of what date?

A First or second of October.

MR. BRANSTETTER: May it please the Court, the best evidence would be the published list and we object to it.

THE COURT: Sustain that objection.

MR. NEAL: Would Your Honor indulge us just a moment. Indulge us just a moment, Your Honor.

BY MR. NEAL:

Q Mr. Mizell, you said the trial started on October 22, 1962, do you remember approximately what day the jury was finally picked and sworn?

MR. BRANSTETTER: We object to that, may it please the Court, I believe the record would show that also.

THE COURT: Sustained.

MR. NEAL: We ask that this be marked for identification.

THE CLERK: This will be No. 147, Your Honor.

(Document referred to above was marked for identification as Exhibit No. 147.)

MR. NEAL: Your Honor, I believe the witness when he was here before had his records here and testified with respect to when the Grand Jury--, the petit jury was finally sworn. Now if the Court thinks it necessary we will bring in the--, very well. We ask that this be marked.

(Document referred to above was marked for identification as Exhibit No. 148.)

BY MR. NEAL:

Q Mr. Mizell, would you look at Government's Exhibit No. 147, sir, and I will ask you if that is a copy of the records in your file?

A Yes, it is.

Q And what is that, sir?

MR. BRANSTETTER: Could we see it, please?

MR. HAGGERTY: I would like to see it, may it please the Court.

MR. NEAL: Could we just identify it first without going into the contents?

BY MR. NEAL:

Q Tell us what it is.

A It is the--, shows the three panels, regular panels, Jury No. 1, No. 2 and No. 3, that was selected for the October term and the first--, on the second day of

October.

Q That was made public the second day of October?

MR. BRANSTETTER: May it please the Court, he is right now asking him the question about made public. We would like to see it and ask him to testify what it is.

MR. HAGGERTY: May I ask that that be stricken, Your Honor, until we ascertain if it was made on October 2nd? He is reading from the exhibit.

THE COURT: Yes, sir. Strike that until the defendants have examined the exhibit.

MR. NEAL: Your Honor, it is made public. It is not a record.

MR. HAGGERTY: I object to it.

MR. SCHIFFER: Your Honor, we move that you strike the question and the answer, Your Honor.

THE COURT: Well I have stricken the question and answer until the defendants have examined the exhibit.

THE CLERK: What is this supposed to be?

MR. NEAL: The next exhibit.

THE CLERK: That will be No. 148.

(The document referred to above, photostatic copy of order signed by Judge Miller was marked No. 148 for identification.)

MR. BRANSTETTER: May it please the Court, we object to the introduction or even using for anything other than identification of this document because there is

considerable writing on it in someone's handwriting that does not appear to be a part of the instrument at all. Nor is there a date on it, official document as asserted other than in someone's handwriting.

THE COURT: All right, may I see it?

MR. NEAL: May I ask the witness--

BY MR. NEAL:

Q Do you know who made the writing on the top of that? Someone in your office write on that?

MR. SCHIFFER: We object to that, Your Honor.

MR. BRANSTETTER: We object to that, Your Honor.

MR. SCHIFFER: He is giving the answer to the witness now again. Mr. Neal has been cautioned about that, Your Honor, and I ask that he be cautioned again on giving evidence. I don't know why I must be called upon to rise every time this way. It will only prejudice my client with the jury but every time Mr. Neal does with a purpose in mind. I'm going to live up to my responsibility even if he doesn't live up to his.

THE COURT: Well, what is the objection now, gentlemen?

MR. BRANSTETTER: The objection is, may it please the Court, that the order of the court and not some mimeographed sheet someone has written on would be the best evidence of when this was officially or officially came into being,

the list, this particular piece of paper appears to be some mimeographed sheet of some sort with considerable writing on it that apparently this witness did not put on it according to Mr. Neal's testimony. And as a result it is not competent nor is it the best evidence. The order itself would be the best evidence. It is not the same condition that it was in originally.

MR. NEAL: Maybe I can clear up some of the things, Your Honor.

THE COURT: All right.

BY MR. NEAL:

Q Do you know who wrote on the top of the list there?

A No.

MR. NEAL: We will just tear that off, Your Honor.

MR. SCHIFFER: We object to that. That would be defacing the totality of the very exhibit. It goes in as it is or it can't go in at all.

End 8

Tk 9 follows

THE COURT: I am going to reserve any ruling on this matter at this time. Let's proceed.

MR. NEAL: That is the only further question I have of the witness.

THE COURT: Beg your pardon?

MR. NEAL: That is the only further question I have of the witness. Well, yes, I can proceed momentarily.

BY MR. NEAL:

Q I hand you what has been marked for identification as Government's Exhibit 148 and ask you if that is a photostatic copy of an order on file in the case you have just mentioned?

MR. SCHIFFER: Objected to, your Honor, the form of the question. The witness is in a position to identify what the paper is without Mr. Neal testifying and identifying it himself.

THE COURT: All right. Sustain the objection to the form of the question.

BY MR. NEAL:

Q What is that?

A This is a copy of the jury.

MR. SILETS: Your Honor, may it please the Court, may we see it before he states what it is? It is being tendered for the purpose of identification.

THE COURT: All right. May the Court see it in

order that we know what we are talking about?

MR. SCHIFFER: Your Honor, may we ask a preliminary question of the witness concerning this document?

THE COURT: All right.

MR. SCHIFFER: Which the government has marked as 148 for identification?

THE COURT: All right.

MR. SCHIFFER: May I approach the witness? I want to point out something, if I may.

THE COURT: All right.

MR. SCHIFFER: Mr. Mizell, with reference to this document, do you see any markings on here in addition to the typewritten words which are in pen and ink or a pencil, whatever it might be?

THE WITNESS: I do, sir.

MR. SCHIFFER: Were those markings on there originally in your court file when this document was prepared?

THE WITNESS: No, sir.

MR. SCHIFFER: It was not. Then, your Honor, I move that the document be excluded, it's not in its original state.

MR. NEAL: Your Honor, I want to show these markings they are talking about.

MR. SCHIFFER: Well, Mr. Mizell, do you know who put the numbers on?

THE WITNESS: I do not, sir.

MR. SCHIFFER: You do not. I move that it be excluded, your Honor.

MR. NEAL: As your Honor can see, somebody has counted up to ten.

MR. SCHIFFER: Objected to, your Honor. Mr. Neal was testifying, trying to get something to the jury that he doesn't have any right to give them.

THE COURT: Well, overrule the objection.

MR. SILETS: Your Honor, I move for a mistrial on the basis of Mr. Neal's comment. This is about the fifteenth time I have had the embarrassed position of rising in front of the jury to ask the Court to declare a mistrial because of the comments made by Mr. Neal and he is in the position of knowing better and he knows better, he's an experienced lawyer, he knows that he should not make those comments in front of the jury.

MR. SCHIFFER: Your Honor, specifically --

THE COURT: (Interposing) Overruled. Allow it to be filed.

MR. SCHIFFER: Pardon me. Since the witness has stated that this document is not in its original state and condition there are markings on it and he does not know the source of who put them on or when, we ask that the evidence be excluded so far as this document is concerned, it's not in

the condition in which it must be to be admitted at this time.

THE COURT: Well, overrule. You may cross examine.

MR. SCHIFFER: In other words, it was altered by somebody, he doesn't know who.

MR. NEAL: Mr. Mizell, does Government Exhibit No. 148 show when the trial, you testified started October 22nd, 1962, does that document, Government's Exhibit 148 show when the jury was chosen and sworn?

THE WITNESS: Yes, sir, it does.

BY MR. NEAL:

Q What was the date?

A October 25th.

Q October 25th?

A Right.

Q I see. We will pass this document to the jury.

MR. HAGGERTY: Just a moment, your Honor. I object to passing this document to the jury with these markings that they have on certain two names until it is ascertained who put them on and when they were put on.

MR. SCHIFFER: And for what purpose.

MR. HAGGERTY: And for what purpose were they put on. It is highly prejudicial in its present form and I think it is within the knowledge of Mr. Neal possibly as to who put

the marks on there and when he put them on. I think he can answer that question.

MR. NEAL: I have no idea. I can't see what they are, your Honor, that could possibly be prejudicial.

MR. SCHIFFER: That is his very testimony.

MR. NEAL: Under the testimony in this case it's certainly not prejudicial.

THE COURT: You may examine the witness further, Mr. Neal, or you may cross examine the witness before it's handed to the jury about any markings.

MR. BRANSTETTER: May it please the Court, has this been officially marked and received in evidence?

THE COURT: At this time it is received in evidence for identification purposes only.

MR. NEAL: Well, we offer it in evidence.

THE COURT: Well, it is received in evidence now.

MR. HAGGERTY: I would suggest, may it please the Court, under your ruling it is received in evidence, then I suggest that it be read to the jury. I always take the position that everything should be shown to the jury but I think if your Honor carefully examines that document you will see the reason for the objection.

THE COURT: Very well. The document may be read to the jury.

(The document previously marked Government's Exhibit No. 148 for identification was received in evidence.)

MR. NEAL: Your Honor, will your Honor point out to the jury the markings?

MR. HAGGERTY: No.

MR. BROWN: That is the very thing we object to.

MR. NEAL: There seems to be some insinuation the government is putting marks on this.

MR. BROWN: Mr. Neal.

MR. SCHIFFER: I move for a mistrial now, your Honor. Mr. Neal has gotten something into the record. I want the court reporter to repeat what he just said and if we are not entitled to a mistrial here now I don't believe that Parks should be here in this court, I move that he be removed from the case here because Mr. Neal has deliberately again done things to this defendant that goes on in Russia and I protest again and I ask the Court again to remonstrate with him.

THE COURT: Well, overrule the motion for mistrial. Let's do not comment upon the evidence, the testimony of witnesses. The document may be read to the jury.

MR. HAGGERTY: Excluding those marks, your Honor.

THE COURT: I assume you are referring to some --

MR. HAGGERTY: (Interposing) Numbers, your Honor.

THE COURT: Numbers. Yes, two numbers apparently written in pencil.

MR. HAGGERTY: May they be excluded?

THE COURT: Those will be excluded. All right. Either counsel or witness may read the document to the jury.

MR. NEAL: Shall I read the document?

THE COURT: I say, either counsel or the witness may.

MR. NEAL: "United States District Court," Judge -- "In the District Court of the United States for the Middle District of Tennessee - Nashville Division. United States of America versus James R. Hoffa."

MR. BERKE: Come back here, Mr. Neal.

THE COURT: Would you come back to the podium, please?

MR. NEAL: "United States of America versus James R. Hoffa and Commercial Carriers, Incorporated, October 25, 1962. Nashville Criminal Number 13,241.

"Came again the United States by special attorneys, James F. Neal, Charles M. Shaffer, Jr., and James A. Durkin, and by Kenneth Harwell, United States Attorney; also came the defendant James R. Hoffa in person and by his attorneys, Z. T. Osborn, Jr., James E. Haggerty, Sr., William Bufalino, and Daniel Maher; also came the jury panel, which on yesterday --

THE COURT: (Interposing) I am having difficulty hearing, gentlemen. Let's leave the conversations down in the courtroom. Speak more loudly, Mr. Neal.

MR. NEAL: "Also came the jury panel, which on

yesterday --

MR. SCHIFFER: (Interposing) I can't hear Mr. Neal where I am sitting, your Honor.

MR. NEAL: "Also came the jury panel, which on yesterday was directed to return today.

"The defendant, James R. Hoffa, renewed his motion to dismiss panel by reason of adverse publicity, and renewed his challenge to the array and motion to dismiss the panel and venire of jurors, which motions were denied by the Court.

"Thereupon the following named jurors were selected to try the case wherein the United States is plaintiff and said James R. Hoffa is defendant: Mrs. John D. Davis; Mrs. D. M. Harrison, Jr.; E. P. Horn; Miss Mary Hall; Alfred R. Dalton; H. G. Blackwell; Mrs. Geneva Rye; Mrs. Gladys Knight; Coleman E. Baird; Mrs. James Paschal; Mrs. Matthew Walker; and Gratin Fields; and the following were selected as alternate jurors:

End 9
10 fls

Eddy Williams, Walter Harper, Mrs. W. M. Jackson, and E. B. Woodruff, who were duly impaneled and sworn well and truly to try the issues joined and a true verdict rendered according to the law and the evidence.

The hour for adjournment having arrived the jury was respited until 9 A.M., October 26, 1962.

Approved for entry, James Neal, Special Attorney for the United States.

William E. Miller, United States District Judge.

It is dated October 25, 1962.

MR. HAGGERTY: May the record show that in that case Mr. Hoffa was not found guilty because that is part of the records?

THE COURT: Gentlemen, you are objecting to matters being stated in the record by counsel and yet you wish to make these comments yourselves. Let's refrain both sides to refrain from commenting.

MR. HAGGERTY: Well, Mr. Mizell is here without bringing him in again, he is the keeper of the records and has that knowledge. Therefore, if I am permitted I will ask Mr. Mizell--

THE COURT: (Interposing) You may examine him, Mr. Haggerty.

MR. NEAL: The government will stipulate a mistrial. Hung jury. No problem with that.

MR. SCHIFFER: Will the government stipulate that the vote of the jury was 7 to 5 in favor of Mr. Hoffa?

MR. NEAL: May it please the Court, the government cannot stipulate the jury vote. The government has no knowledge.

MR. SCHIFFER: Well, the government does have knowledge.

THE COURT: The jury will disregard the statements of the counsel that are not admitted in evidence.

MR. NEAL: Your Honor, the only questions we have of the witness pertain to the jury list now when it was issued, et cetera.

THE COURT: May I see the exhibit?

MR. NEAL: With the other exhibit, your Honor, No. 147?

THE COURT: All right. I am going to sustain the objection. It may be admitted for identification purposes.

MR. NEAL: Would your Honor advise the objection was that there was something written on top? Could we just delete that?

MR. HAGGERTY: Just a moment, your Honor, I certainly object to comments. Mr. Neal must be doing this with malice aforethought to get this in front of the jury by devious and improper means. I certainly object.

MR. NEAL: I don't know what I am doing. There is an objection every time I open my mouth.

MR. HAGGERTY: If you want to make such argument as that why don't you ask that the jury be excused if you are not doing it deliberately and with malice?

MR. NEAL: May it please the Court, it is not prejudicial to ask the basis of the Court's ruling. If there is something improper with respect to the exhibit, let us know so that we may correct it.

THE COURT: Let me see the exhibit. Again, what is the objection of the defense to this document?

MR. BRANSTETTER: It is not the best evidence and the paper writing has been materially altered by some person unknown to this witness.

THE COURT: You are referring to some writing?

MR. BRANSTETTER: The writing. The writing.

THE COURT: Immediately at the top of the document? The matter immediately at the top of the document?

MR. BRANSTETTER: Yes, the handwriting.

THE COURT: Handwriting at the top of the document.

MR. NEAL: We have no objection to just deleting that, your Honor, if that is the objection. As far as the best evidence rule is concerned, this witness has testified that that is a copy of the record on file. It is obviously a photostatic copy and those photostatic copies are, or

mimeographed copies, are the best evidence, your Honor.

MR. HAGGERTY: With the exception, of course, what is at the top.

MR. NEAL: We are willing to delete what is at the top, your Honor, and get on with the trial.

MR. HAGGERTY: It alters the exhibit.

THE COURT: Well, again, I will allow the witness to read this into the record without reading the matter objected to at the top, the handwriting.

MR. NEAL: Very well.

MR. BRANSTETTER: May it please the Court, is that the only writing on this particular one? I thought there was some other writing. Could I see it, please? All right.

BY MR. NEAL:

Q Before you do that, Mr. Mizell, do you know when this was issued? Approximately when it was issued or made public?

A The first or second week--

MR. HAGGERTY: (Interposing) I object to approximately, may it please the Court.

THE COURT: Sustain the objection.

BY MR. NEAL:

Q Well, can you tell us within a day or two when it was made?

MR. HAGGERTY: I object to that, your Honor.

MR. SCHIFFER: I object to it.

THE COURT: Sustained.

BY MR. NEAL:

Q Do you know when it was published, sir?

MR. HAGGERTY: Publishing is not the test. It would be the circulation or its availability.

BY MR. NEAL:

Q Do you know when it was made public, sir?

MR. HAGGERTY: He has already testified.

MR. BRANSTETTER: I believe, may it please the Court, the witness said he did not know the date and then the writing was put on the top of it.

THE COURT: I will allow him to answer if he knows.

BY MR. NEAL:

Q Do you know, Mr. Mizell?

A My personal knowledge, again, of course, that is not admissible, I know one of two days but I do not--

Q (Interposing) Give us the one. Do you know one or the other of two days?

A Yes, sir.

MR. SCHIFFER: Objected to, your Honor. This is the clerk recorder. He holds the records. He is the custodian of the records. The witness has been here before,

and he testified. Mr. Neal has had at least about three weeks to procure the necessary records the way they should have been presented here and we certainly don't want an expert like Mr. Mizell, the Clerk of the Court, to testify by guesswork. These are vital issues in this case. We want specific dates. We believe we are entitled to them.

THE COURT: Overrule the objection.

BY MR. NEAL:

Q Either one or the other date, give either one or the other.

A It would be either the 1st or 2nd of October, 1962.

Q First or 2nd of October, 1962?

A That's right.

Q Now, sir, did the Judge in selecting the jury go down that list?

MR. BRANSTETTER: Now--

THE WITNESS: (Interposing) What is the question, sir?

BY MR. NEAL:

Q Were the jurors called to the box and examined in that order, sir?

A That's correct. Yes.

MR. NEAL: May I read it then to the jury, your Honor?

THE COURT: All right.

MR. SCHIFFER: Objection, your Honor. I believe this is not the kind of way to introduce this evidence for this reason.

End Tk 10
Tk 10A fls.

As your Honor knows, in conducting and impaneling a jury there is a whole panel, two or three hundred names. Now, what Mr. Neal is trying to do with this particular exhibit is to show that here a certain order which was predetermined, you see, and not by lot or by chance, twelve people took their places in the jury box as though before they were selected in accordance with the way this sheet reads anybody in this world could have known that these would be No. 1, No. 2, No. 3, No. 4 and so on.

MR. NEAL: That's right, that is just what the witness has testified.

MR. SCHIFFER: That prior to the time anything was inserted on here there was a chance drawing by lot. It could have been 12 other people including the alternates, your Honor, would have been anybody, two to three hundred names.

MR. NEAL: Have you listened, Mr. Schiffer, to Mr. Mizell?

THE COURT: Just a minute, allow the Court to rule on the objection. Overrule the objection.

MR. SCHIFFER: We specifically except.

MR. HAGGERTY: May it please the Court, there was a question and answer that I didn't hear, the question was asked by Mr. Neal and the answer was right low at the time. Could I have read back that question?

THE COURT: Yes, sir.

MR. HAGGERTY: Just before my objection.

(Thereupon, the court reporter read back as follows:)

"Question: Now, sir, did the Judge in selecting the jury go down that list?

"Answer: What is the question, sir?

"Question: Were the jurors called to the box and examined in that order, sir?

"Answer: That's correct. Yes."

THE COURT: Did you not hear Mr. Schiffer, Mr. Haggerty?

MR. HAGGERTY: I heard Mr. Schiffer.

THE COURT: That is what is being read now.

MR. HAGGERTY: Thank you, your Honor.

BY MR. NEAL:

Q Mr. Mizell, you were engaged in the selection process for the last trial, were you not, sir?

A Yes, I was.

Q Calling off names?

A Yes.

Q Now, did you hear Mr. Schiffer a while ago talking about drawing by lot?

A Yes.

Q Did they draw by lot to pick this jury? Or did

they take these in the order that they appear on here? Were they called in the order they appear in here?

A Yes.

Q I see. So, then, if No. 1 was Mrs. J. B. Brannum and No. 2 Mr. E. P. Horn , you know after you called Mrs. Brannum, Mr. E. P. Horn would be called next, is that right, sir?

A Yes, sir.

MR. NEAL: May I read this now, your Honor?

MR. SCHIFFER: No, your Honor, may we ask a preliminary question? I want the confusion eliminated here. I should like to ask a couple of preliminary questions to Mr. Mizell to clarify it before the jury has this read to them.

THE COURT: All right, I will permit you to do so.

BY MR. SCHIFFER:

Q Mr. Mizell, I just want to clarify a point. I wonder if you would help us. There is this list of the jurors who actually sat on the case as the jurors chosen who took their oath to sit as jurors. My question directed to you is that these names until the 25th or the termination of the 25th of October, 1962, actually until they were sworn nobody knew with any certainty that these would be the 12 jurors in the box to sit on that case, is that not true?

A On the case--no, sir, no, sir, that is true.

Q Isn't that true?

A Yes.

Q So that until the 25th of October and until each and every juror was sworn in as a juror, nobody could say whether those would be the 12 people to try this case until they were sworn?

A That's right.

Q And during the course of selecting the 12 persons for the jury is it a fact that those names were drawn at random or by lot from two or three hundred names that you had impaneled as the prospective panel of jurors?

A No, sir.

THE COURT: Now, aren't we getting into strictly cross examination?

MR. SCHIFFER: Your Honor, I think one question will clarify it. Need not be any cross.

THE COURT: All right.

THE WITNESS: May I, Mr. Schiffer, your Honor, I believe there is some confusion actually as to what this list really is, if I may make the statement.

THE COURT: Well, just respond to the questions.

BY MR. SCHIFFER:

Q I am just asking these questions for the selection of the 12. In other words, is this entirely correct, sir, so the jury understands your answer more and me, that the

twelve persons who actually sat as jurors in the case were not finally selected and sworn until the termination of the 25th day of October, according to your records, and that the twelve persons who actually sat, whose names are listed as of the 25th of October, were drawn, not in any sequence, but that while names were drawn, challenges were made to different jurors as they took their places in the box. Is that correct?

End Tk 10A
Tk 11 fls.

THE WITNESS: No, sir, not exactly, not as you state.

MR. SCHIFFER: Let me get--

MR. NEAL: (Interposing) I object to this.

THE COURT: This is cross examination, Gentlemen.

MR. NEAL: He interrupted my examination.

MR. SCHIFFER: Before it's read to the jury I should like the jury to have a complete picture of what they are listening to and what it signifies.

THE COURT: That is a matter of cross examination, Mr. Schiffer.

MR. SCHIFFER: All right. We'll take it up on cross.

MR. BRANSTETTER: Then, may it please the Court, I believe this instrument should be totally eliminated because the best evidence has already been read to the jury. The order itself stated the names of the persons that were seated in the jury box. I don't know what he seeks to prove by this. That order has already been read and that is the best evidence of that fact.

THE COURT: Overruled.

BY MR. NEAL:

Q Now, so we may be entirely clear, on October 22nd, the 23rd, 1962, when we started to select the members of the jury, you, sir, would call off the name?

MR. SCHIFFER: I--

Q (Interposing) In the order they appear here?

MR. SCHIFFER: I understood, Your Honor told the prosecutor not to exhibit this to the jury, now he is holding it in such a fashion that it particularly points up precisely what Your Honor said could not be shown to the jury.

THE COURT: Proceed.

BY MR. NEAL:

Q The names were called off in the order they appear here beginning with one through twelve. On Jury No. 1 and one through twelve on Jury No. 2 and then one through twelve on Jury No. 3, is that correct?

A That is correct.

Q And right down that way, is that correct?

11A

A Yes, sir.

Q So that you knew that these first twelve people would be the first twelve people called in the box.

MR. BERKE: We want to object to him leading for one thing.

THE COURT: Sustain the objection.

MR. BERKE: What he knew doesn't mean that anybody else does.

THE COURT: Sustain the objection as leading.

MR. NEAL: If now is the appropriate time to read the list I will read it and that will be all the examination.

MR. SCHIFFER: Your Honor, may we have cross before the list is read to the jury so that we have a complete picture? I think it would be clarified on cross examination.

THE COURT: Well, the exhibit is permitted for identification purposes because of the objection that has been made but it may be read to the jury.

MR. NEAL: At this time, Your Honor?

THE COURT: Yes.

MR. NEAL: Thank you. "In the District Court of the United States for the Middle District of Tennessee, Nashville Division.

"Jury No. 1, Courtroom No. 1." By the way, whose courtroom was No. 1?

THE WITNESS: Judge William E. Miller.

MR. NEAL: And who presided over the Hoffa case?

THE WITNESS: Judge William E. Miller.

MR. NEAL: All right, sir. "Jury No. 1, Courtroom No. 1, October term--, October 1962 Term--

"Mrs. J. B. Branham."

With the Court's permission I might save time if defense counsel wish, I will read the names, I am just interested in the names, I will leave out the addresses.

MR. HAGGERTY: Read the whole thing. I think the whole thing should be read.

MR. NEAL: "Mrs. J. B. Branham, 236 E. Spring Street,

Lebanon, Tennessee, Wilson County."

Then there is a line drawn through"Dr. James S. Thomas, Box 871, Nashville, Tennessee, Davidson County."

Was Dr. Thomas excused before October the 22nd, sir?

THE WITNESS: He was, yes, sir.

MR. NEAL: I see. "E. P. Horn, Route 2, Nashville, Tennessee, Davids o n County.

"William B. Morgan, Box 115, Brentwood, Tennessee, Davidson County.

"John Hitt, 215 No. Universs ity, Murfreesboro, Rutherford County.

"Mrs. Joe Rickman, P. O. Box, Hartsville, Tennessee, Trousdale County.

"C. F. Duncan, 300 Center Avenue, Dickson, Tennessee, Dickson County.

"Mrs. Lillian Roberts, 1005 E. Main, Murfreesboro, Tennessee, Rutherford County.

"Nick Stuart, Jr., 2618 Alameda Avenue, Nashville, Davidson County.

"John Selsemyere, 108 Marathona Road, Madison, Tennessee, Davidson County.

"Will Haggard Couts, Route 5, Springfield, Tennessee, Robertson County.

"James C. Tippens, Route 1, Brentwood, Tennessee.

Williamson County.

"Jury No. 2.

"Mrs. D. M. Harrison, Jr., West Gay Street, Lebanon, Tennessee, Wilson County.

"Albert Gunter, 1711 Jo Johnson Avenue, Nashville, Davidson County.

"Robert Martin, Route 1, Murfreesboro, Tennessee, Rutherford County.

"Mrs. James P aschal, Woodbury, Tennessee, Cannon County.

"Mrs. Matthew Walker, 1709 Windover Drive, Nashville, Davidson County.

"Hubbard McClelland, Jr., 523 E. Castle, Murfreesboro, Rutherford County.

"Coleman E. Baird."

THE COURT: I am sorry, I didn't hear the last.

MR. NEAL: Hubbard McClelland?

THE COURT: No, someone--

MR. NEAL: (Interposing) "Coleman E. Baird (Spelling) B-a-i-r-d, Lawrence Lane, Springfield, Robertson County.

"Louise F. Gachette, 838 Franklin Street, Clarksville, Montgomery County.

"Bill Summers, Tennessee Ridge,Tennessee, Houston County.

"Perry Price, 423 Park Avenue, Lebanon, Tennessee, Wilson County.

"H. G. Blackwell, 125 4th Street, Clarksville, Tennessee, Montgomery County.

"Mrs. Reps Marable, Palmyra, Tennessee, Montgomery County.

Montgomery County.

"Jury No. 3. H. M. Pickering", I beg your pardon, "H. M. Carter, Belleview, Tennessee, Davidson County.

"Roscoe Pickering, Route One, Adams, Tennessee, Montgomery County.

"Mrs. John D. Davis, Route 3, Ashland City, Tennessee, Cheatham County.

"Alden S. Lannom, Route 3, Mt. Juliet, Tennessee, Wilson County.

"Mrs. Julia Jennette, Route 1, Franklin, Tennessee, Williamson County.

"Gratin Fields, 1806 MeHarry Boulevard, Nashville Davidson.

"Emmett Frazier, Ashland City, Tennessee, Cheatham County.

"Mrs. Edith Mugler, Route 1, Brentwood, Tennessee, Williamson County.

"Mrs. Geneva Rye, Route 1, Erin, Tennessee, Houston County.

"Alfred R. Dalton, River Street, Hartsville,

Tennessee, Trousdale County.

"Mrs. Gladys Knight, Whites Creek, Tennessee, Davidson County.

"Miss Mary Hall, Woodbury Pike, Murfreesboro, Rutherford County."

Now, sir, government's Exhibit No. 147 was a panel and that with other names, I assume, were the names from which were drawn the jurors?

MR. BRANSTETTER: May it please the Court, I object to what he assumes.

MR. NEAL: Very well.

BY MR. NEAL:

Q This does not presume to be the jury that actually sat in the case, is that correct?

A That is correct, yes.

Q But Government's Exhibit 148 is the jury that was finally chosen on October 25th?

A That is right, yes, sir.

Q And I have previously read that to the jury a moment ago, the first time I read it to the jury.

A (Witness moves head up and down.)

MR. NEAL: Cross examine.

THE COURT: Yau may cross examine.

MR. SILETS: Your Hom r, I haven't seen these documents. Nothing, Your Honor.

THE COURT: Do I understand there is no cross?

MR. SCHIFFER: No cross examination, Your Honor. I wonder if this might not be an appropriate time for a recess, Your Honor?

THE COURT: Yes, sir, we will take a--

THE WITNESS: (Interposing) Your Honor, may I be excused?

THE COURT: May Mr. Mizell be excused? Without objection, he will be excused.

(Witness excused.)

THE COURT: Let's take a ten minute recess, ladies and gentlemen.

(Thereupon, a recess was had at 10:50 o'clock a. m.)

(The jury of 12 and 4 alternates were excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

MR. HAGGERTY: Your Honor, the government has indicated the next witness will be the Witness Tippens and accordingly they served us a short time ago with a memorandum of law that sufficiently of evidence aliunde to connect defendants with the endeavor alleged in Count 2. We have prepared a brief and we serve the government. Does your Honor want argument on this?

THE COURT: Well, Mr. Haggerty, the government in order to save time, here the government will certainly have the burden of convincing the Court that any conversation or alleged conversation between Mr. Tippens and a Mr. Medlin would be admissible. The Court is of the opinion that any conversation, alleged conversation, between Mr. Tippens and Mr. Medlin under the present state of the record would not be admissible if the government wishes to pursue the matter.

MR. NEAL: Yes, your Honor, we wish to pursue the matter. We have filed what we thought to be a fairly conclusive memorandum to that effect. With citations of authority that seem to go far beyond what we have here. Now, here is the situation, your Honor, we have alleged in Count 2 that the Defendant Medlin endeavored to influence Juror Tippens by offering him $10,000 to vote for acquittal of Hoffa. We have alleged the Defendant Hoffa aided and abetted this.

Now, your Honor, the testimony has been and the

testimony will be with respect to the Witness Tippens, of course, I will have to represent to the Court what the testimony will be. But the testimony will be and part of it already is, that Tippens of course was on the jury. He was seated on October 23, 1962, as Juror No. 12.

MR. HAGGERTY: I want to correct that. He was not a juror. He was not a juror because he was never accepted as a juror. He was just in the box. That is all, overnight.

MR. NEAL: I don't think I will misstate the facts to the Court. I will finish my statement. He was seated in the jury. He was passed by the government. This is on October 23, 1962, according to the records. He was passed by the government.

Under our procedure there, of course, the government could have gone back and struck him. He could have been stricken by counsel for the defendant, but he was in the box when the box was passed to the Defendant Hoffa on October 23, 1962.

While he was in court that day, according to the testimony of record, the Defendant Medlin called at his office. Left his number with Mrs. Carlton who has testified and left word for Mr. Tippens to return the call to Mr. Medlin.

End 12
13 fls

Mr. Tippens returned the call to Medlin and Medlin told him he wanted to see him. Now, so far that is up to this point we have had testimony of Miss Carlton that she received the call, that Mr. Tippens was gone. She received a call from Medlin. Mr. Medlin left his number. She gave the number to Mr. Tippens when he came in from court.

Mr. Tippens will testify that when he got back to the office he received word from his secretary that Red Medlin had called him. He called Red Medlin and Red Medlin said, "I want to talk to you," or words to that effect. I am not representing to the Court the witness will testify to these words, I am giving the substance of what we expect the witness to testify to based on an investigation and statements and Grand Jury transcript.

He will testify that the Defendant Medlin knew he was a prospective juror, that he was in a situation in the United States versus Rutherford, which we cited to Your Honor in our general memoranda, that the Defendant Medlin knew he was a prospective juror because he had spoken to him about it.

He will testify to that on Tuesday, October 23rd, 1962, he was placed in the jury box as Juror No. 12 had been passed by the government. He will testify when he went back to his office and received the word that he was to call Red Medlin, he called Red Medlin at the number left by Medlin.

He will testify that he recognized Medlin's voice on the phone. He will testify that pursuant to this request by the Defendant Medlin he went by his, Red Medlin's sandwich shop at about 4:30 in the afternoon, and get the date, Your Honor, the dates are significant, on October 23rd, 1962 in the afternoon, October 23rd, 1962, he entered the premises, saw the Defendant Medlin together with his brother-in-law. After speaking to the two a few minutes Medlin said, "Come outside, I want to talk to you."

He and Medlin thereupon went to the Tippens car parked beside the building. They went in the car. They shut the door. Medlin opened the conversation by stating--, I don't know whether he is going to say, "You can make some money," or "we can make some money," but he is going to say either "you" or "we can make some big money".

I believe he said "we".

MR. HOOKER: We.

MR. NEAL: My recollection is he testified that, "We can make some big money." So I will represent to the Court he will say, "We can make some big money." He said, "We can make $10,000.00."

He will testify that Medlin told him, in substance all that he had to do was cast a vote for acquittal in the Hoffa case and that it might not be necessary because there may be votes where yours wouldn't count.

He went on after Tippens tried to shut him up, he went on to say that, "$10,000.00 is a lot of money." Then $10,000.00 is a lot of money to be paid in one hundred dollar bills, that no one need to know where the money was coming from. Tippens at this point was able to shut him up.

On October 24th, Your Honor, the next morning, the very next morning, Tippens reported to Judge Miller the approach by Medlin and Judge Miller, out of the presence of all of us, excused Tippens from service.

But Judge Miller then called government counsel, counsel for the Defendant Hoffa, and the Defendant Hoffa himself, and the court reporter, in chambers on Wednesday, October the 24th, 1962, immediately after Tippens reported to him and told us what had been reported. Of course, Tippens was excused.

That afternoon, according to the testimony of Tippens, this is the afternoon of October 24th now, that afternoon he went back to Medlin and told him that he had had to report his approach to Judge Miller and he gave him the details.

He said that Judge Miller had required him to identify the person who made the approach and he told Medlin that he had told Judge Miller that it was he, Medlin. Medlin, according to Mr. Tippens, immediately replied that he was sorry he, Tippens, told Judge Miller his name. Medlin,

Mr. Tippens will then testify that Medlin said in substance that all he had to do or why didn't he tell Judge Miller that he, Tippens, had received an anonymous telephone call.

Medlin also added, "I wish you hadn't told him who I was. I had not thought any more about it."

Medlin then added, "That fellow called back and wanted to know what you said."

Medlin said he had told the fellow, "Tippens said he's not interested in any price and he will vote according to the evidence."

Medlin then added, according to what Mr. Tippens will testify, that Tippens had given him,--Medlin then added that now that Tippens had given him, the Judge, Medlin's name, he, Medlin, would have to say something. Tippens replied to Medlin, "I don't care what you say. You can even say you overheard it," but that he, Tippens, would continue to tell the truth.

Now, Your Honor, that approach was made on the afternoon of October 23rd, 1962. The testimony has been, Your Honor, and it's the credibility for the jury and when it comes to a matter like this the Judge is too, under all of the cases, this is like a judgment of acquittal, Your Honor, the judge is to leave the credibility to the jury and to engage in every reasonable presumption in favor of the case going to the jury. Certainly there can be no dispute as

to that proposition.

The testimony is now that according--, that the Defendant Hoffa said to the Defendant (witness) Partin on October 22, is my recollection, or thereabouts, maybe that is not the precise date, but the early date when he got here, the first day or two he was there, he, Hoffa, said that they were going to get to one juror, try to get to a few scattered jurors and take their chances. I am citing there, Page 3222 of the transcript, 3222.

Now, Your Honor, he was specific on this date. He said he was leaving, the witness Partin said he was leaving for Baton Rouge, leaving Nashville on October 23rd. Now, Your Honor, this is October the 23rd.

End 13
13A fol.

He said the Witness Partin testified, "Hoffa called me into his room and told me when I came back he may want me to pass something for him. He put his hand behind his pocket like that and hit his rear pocket." That's page 3238, your Honor.

Now, your Honor, according to the Witness Partin, he left on October 23rd. He came back on October 25th. At this time he went in to see Hoffa because of the statement Hoffa had made to him when he left town on October 23rd about wanting to pass something.

When he brought this up, the Defendant Hoffa said, "The dirty bastards or bastard went in and told the judge that his neighbor had offered him $10,000. We are going to have to lay low for a few days."

Now, your Honor, that so clearly ties the Defendant Hoffa in with this approach, certainly the jury can find, and we are not saying what the jury will find, but when you remember that your Honor must engage in every reasonable presumption serving the government on this according to the law, certainly the jury would be entitled to find that the Defendant Hoffa was referring to the approach by Medlin to Tippens.

Why, your Honor? Well, listen, he says upon the day the approach was made, "When you come back I may want you to pass something for me," and hit his pocket. He had already

said he is going to try to get to the juror or a few scattered jurors. When he came back, he said, "The man went to the judge and told the judge that his neighbor had offered him $10,000." The exact figures offered Tippens, "And we are going to have to lay low for a few days."

Now, your Honor, the defendants -- I haven't had time to study their memorandum, but they talk some of these as being past narratives with respect to when it is made by the Defendant Hoffa it doesn't make any difference whether it is -- I would agree that if it's a past narrative as far as the other defendants are concerned, if it's merely a narrative of past events, it may not be admissible or those statements that Hoffa made may not be admissible against other defendants, but as to the admissibility against the Defendant Hoffa, your Honor, there is no question whether it's past, future, or present narrative, it is admissible against the Defendant Hoffa.

Now, your Honor, Mr. Tippens will testify that Medlin was his neighbor, that they were life-long friends and neighbors. Now, how close, how much more, your Honor, could the government tie this up?

THE COURT: All right.

MR. NEAL: It is so clear to me, your Honor, I'm afraid I'm not being as convincing or persuasive as I should be because I don't see the question that is bothering your

Honor.

If your Honor would indicate in what manner you are bothered, I would certainly endeavor to answer questions.

THE COURT: Well, I see no or recall no reference anywhere in the record to any testimony that would relate Mr. Medlin to any defendant in this case and in the absence of any relation or in the absence of any evidence of the relation between Mr. Medlin and any defendant in this case, I find it difficult to see how any out-of-court statements that Mr. Medlin made would be admissible as against any defendant in this case.

MR. NEAL: Your Honor --

THE COURT: (Interposing) Now, my remarks in that respect, as I stated, are addressed toward any out-of-court statement.

MR. NEAL: Well, your Honor --

THE COURT: (Interposing) Alleged to have been made by Mr. Medlin.

MR. NEAL: If the Defendant Medlin were here, your Honor would have to tell the jury that these statements by Medlin may or may not be considered against the Defendant Hoffa if they find the connection. Now, this is for the jury to find the connection, your Honor, and you say that there is no mention of the name, I respectfully --

THE COURT: (Interposing) I have a responsibility,

it's not altogether -- everything is not up to the jury, Mr. Neal.

MR. NEAL: No, your Honor; no, Your Honor.

THE COURT: There must be some evidence in the record.

MR. NEAL: The government has to show some connection. How else can we do it, your Honor? Listen, your Honor, to Maurin versus United States, a Sixth Circuit case, 127 F. 2nd 827, particularly at page 830.

End 13a
14 fls

Particularly at page 830.

THE COURT: That is a case cited in your memorandum?

MR. NEAL: Yes, your Honor, the Court of Appeals for the Sixth Circuit stated as follows: "It is not necessary that there should be any direct communication between an accessory before the fact and the principal felon --

THE COURT: Wasn't that a situation of husband and wife?

MR. NEAL: Well, your Honor, I don't think Maurin was the husband and wife, your Honor.

Your Honor, going ahead with that, "It is not necessary that there should be any direct communication between an accessory before the fact and the principal felon. It is enough if the accessory direct an intermediate agent to procure another to commit the felony without naming or knowing of the person to be procured."

That is Maurin versus United States, Sixth Circuit case.

In Poliafico versus United States, I have given that citation before.

THE COURT: The last case that you were citing, that doesn't deal with the question of out-of-court statements by the alleged accessory, though, does it, Mr. Neal?

MR. HAGGERTY: Your Honor is speaking of the Maurin

case?

THE COURT: Yes, sir.

MR. HAGGERTY: No, of course it doesn't.

MR. NEAL: Your Honor, with respect to out-of-court statements, we have got to establish here that the Defendant Hoffa aided and abetted an approach. We have got to establish that an approach has been made. I don't know what we are dealing with in out-of-court statements for because we have got to establish that an approach was made before we can establish that Hoffa aided and abetted.

Now, we have put on evidence here, your Honor, which your Honor must find, it seems to me, that giving the testimony the credibility that seems to me you must at this point, that if the approach had been made by Medlin, the jury could find that Hoffa had aided and abetted on his own statements, your Honor, his own actions.

Now, these out-of-court statements certainly the defendant is entitled to an instruction that before they consider the statement they must find that one or more defendants either was a co-conspirator with the Defendant Medlin or aided and abetted the Defendant Medlin, one or the other. Certainly that is true. Any absence of a finding by the jury then they shouldn't consider the Medlin matter.

But, your Honor, if we can't put on the approach here, how can the jury have any opportunity to find whether

Hoffa aided and abetted or not? We have testimony here, your Honor, numerous testimony, going on that by the Defendant Hoffa that they were going to try to get to one juror or a few scattered jurors and those things.

Your Honor must accept this at face value. Here is a plan to get to the jury. A plan made prior to what would be the Tippens approach. Then he comes in and says on the very day of the Tippens approach, I may want you to pass something for me. He comes back and hits his hip pocket.

Then after the Medlin approach to Tippens, he says the so and so went in and told the judge that his neighbor had offered him $10,000 and we are going to have to lay low for a few days.

Then later on, your Honor, at page 3269 the Defendant Hoffa according to the testimony said he would pay $15,000 or $20,000, whatever it cost so as to, to get to the jury.

Your Honor, all of this the jury can consider in determining whether the Defendant Hoffa aided and abetted anyone to make an approach.

While we are dealing with out-of-court statements, your Honor, we are dealing with the approach that we have charged the Defendant Hoffa with aiding and abetting. I mean, I don't, if this is not enough proof to show aiding and abetting, I just don't know what it would take, your Honor.

We have to show the approach before we can show anyone aided and abetted before the jury can so find. It is not a matter of out-of-court statements.

Poliafico versus United States, the Sixth Circuit case, which we have cited to your Honor, the Sixth Circuit probably one of the best reasoned opinions, the best reasoned opinions on conspiracy is this, your Honor, that it is not necessary that all conspirators know each other or ever talk to each other or that everybody know every part of the plan.

Now, of course, if we are not allowed to put on the approach, Medlin to Tippens, whether you call it out-of-court statement or not, then we have to move for dismissal of Count No. 2 of the indictment and that is that. But we have established that Hoffa according to the testimony that your Honor must accept at this point, we have established that Hoffa had a plan to get to the jury to get to one or more jurors, take his chances to get to them, your Honor, we have established that he had that plan before the Tippens approach. We have established that on the day of the Tippens approach he had Partin come into his room and when told that Partin was leaving town, he said, can you come back in a few days? I may want you to pass something for me, and put his hand around on his rear pocket, then when he came back --

THE COURT: (Interposing) Mr. Neal, where is there

any evidence in this record of any connection whatsoever between Mr. Medlin and any defendant in this case?

MR. NEAL: Well, your Honor, Hoffa and Medlin were involved in the same conspiracy. We have shown them both being involved in the approach by the testimony of Hoffa's own statements, his own, his own plan, and Medlin's approach.

Now, your Honor is concerned apparently, of course, we don't know all the connecting links, but you don't have to show that, you don't have to show all the people involved in a conspiracy. You can say, indictments generally say, and others to the Grand Jury unknown. What we don't have here and what we haven't been able to find out here is whether there was a direct connection between Hoffa and Medlin or whether there are intermediaries who won't talk.

But certainly, certainly, your Honor, we have shown a conspiracy taking all the proof, your Honor, we have shown a conspiracy to bribe jurors in this case.

End 14
14a fls

Poliafico vs. United States, when two or more persons are shown to have engaged in the same unlawful conspiracy having for its purpose, object, same common and unlawful purpose, it is not necessary to prove the knowledge by one of the felons even the existence of others in order to render evidence of actions of those against that person.

Much more language to that effect.

THE COURT: What is the citation of that?

MR. NEAL: Poliafico, your Honor, 237 Fed. 2d 97, Sixth Circuit, certiorari denied 352 U.S. 1025.

THE COURT: I think we might as well let the jury go on back for lunch and report back at 1:30. Will counsel request that the jury be instructed at this time or--

MR. HAGGERTY: (Interposing) No, your Honor.

THE COURT: Will counsel waive the instructions?

MR. SCHIFFER: Waive the instructions, your Honor.

MR. BERKE: Waive the instructions.

THE COURT: I understand that all counsel waive the instructions, allow the jury to return then for lunch and be back at 1:30.

MR. NEAL: Now, your Honor, continuing, the Court, Poliafico vs. United States says, once the existence of the conspiracy is clearly established, slight evidence, slight evidence may be sufficient to connect the defendant

with it. Citing cases.

Your Honor, here is the situation, you say there is no evidence to connect the Defendant Hoffa with the Defendant Medlin? Well, your Honor, we offer to prove by calling Judge William E. Miller that there was only one person in the whole trial who reported an offer of $10,000 to him by his neighbor. Or only one person who offered, told him of the $10,000 bribe in any event.

Now, Medlin refers--Medlin is a neighbor of Tippens. Ten thousand dollars, Hoffa refers to the neighbor of Tippens, $10,000, lay low for a while. So there is a clear connection, your Honor.

There is only one person who reported to the Judge that a neighbor offered him $10,000 and we so offer to prove, if your Honor thinks that is necessary. We cite your Honor the cases that we have in our memorandum that seem to substantiate our position most clearly. We have general evidence linking Hoffa and Medlin to a conspiracy to bribe these jurors and we have specific evidence with respect to the Defendant Hoffa, specific evidence when he is linked by a neighbor, by $10,000, by lying low for a few days. I am citing pages in the transcript, your Honor.

It seems to me that we have quite clearly enough here to establish a conspiracy and to establish or from which the jury might infer that Hoffa aided and abetted any approach to the Defendant Medlin.

End Tk 14A

Certainly if the Defendant Medlin, Your Honor, were in this indictment Your Honor would tell the jury that they could not find that on the evidence we had presented that the Defendant Hoffa may--, they could not find that at all that the Defendant Hoffa aided and abetted the Defendant Medlin in this approach but I think Your Honor would have to say that is a question for the jury. Well, it is with the Defendant Medlin out, I mean it is the same with the Defendant Medlin out but just because the Defendant Medlin's case was retransferred back to Nashville, certainly shouldn't prevent us from putting on the proof of aiding and abetting by the Defendant Hoffa. The jury may not find but certainly they have ample proof on which to do so, we believe if Your Honor will consider these cases we have cited and consider the evidence we have cited to Your Honor in line with the position that Your Honor must take the evidence in the most favorable light to the government at this point, that Your Honor will have to conclude that the jury could infer, could find based on the statement that the Defendant Hoffa made-- I want to point out again, Your Honor, that he said before the approach he was going to get to one of the jurors or try to get to a few scattered jurors and take their chances, at Page 3222 of the transcript he said on the day the approach was made, the very day the approach was made that he may want--, when Partin comes back he may want him to pass

something for him and he hit his hip pocket.

Now, you can't take these statements in isolation, Your Honor. Then after the approach was made, when Partin came back to remind him of what he had said about passing something when he left he says, "The dirty so-and-so went in and told the judge that his neighbor had offered him $10,000.00. We are going to have to lay low a few days."

A clear connection, Your Honor, by the amounts, by the neighbor, by the reference back to the statements he made about passing something, Your Honor. It's the only situation we have like that in the whole case. It could be nothing else, and certainly the jury is entitled to so find.

I don't understand, maybe Your Honor is worried because Medlin is not in the case, but, Your Honor, we have charged Hoffa as the principal and aider and abettor.

THE COURT: I am not worried about any matter in that respect. I have got a responsibility here and that is to try this case in accordance with the law.

MR. NEAL: Yes, Your Honor.

THE COURT: Under the law the government has the burden of establishing some connection between any defendant and another party before the statement of that party would be admissible.

MR. NEAL: Well, Your Honor, I would like for Your Honor to refer to the Poliafico case. If you show all

15-3

actors as doing their part you don't have to show that the Defendant Hoffa got X, Y and Z and got to Medlin through these people. Hoffa is part of the plan to get to the jury if Medlin is doing part of the plan to get to the jury, the jury can infer they were working together toward a common end. Hoffa was the only man in the indictment, the only man on trial in this case. If the statement at the time taken here doesn't show some connection with Medlin what does it show,some connection with a plan to get to the jury in which Medlin has taken a part.

It doesn't make any difference, Your Honor, that Hoffa never met Medlin, never mentioned his name. It doesn't make any difference that Medlin never met Hoffa, if that be a fact, I don't know. It doesn't make any difference if Medlin never met Hoffa. If Hoffa--, if there is some evidence here which we can show that Hoffa was a part of this Medlin approach then he aided and abetted and we are charging Hoffa with aiding and abetting the Medlin approach. Now, these four or five statements here, some general and some specific, show that Hoffa was behind, taken at face value, Your Honor, show that Hoffa was behind the plan to get to the jury trying the case for which he only was on trial, and you have Medlin going out and making the improper approach.

End 15
15 fol.

We don't show the Court but we would like to show that Hoffa had either gone directly to Medlin, they sat down and had a meeting, or if Hoffa had gone to X and Y and Hoffa, X and Y and Medlin had sat down and had a meeting, but seldom can the government show that, it's almost impossible ever to show that, but it's not necessary for Hoffa and Medlin to know each other. Certainly we put Hoffa in this conspiracy, certainly we put Hoffa aiding and abetting these approaches.

As an example, your Honor, suppose the evidence had shown, suppose Hoffa said, instead of saying, "The dirty so-and-so went and told him his neighbor had offered him $10,000, we are going to have to lay low for a few days," suppose he said, "Medlin went in," I mean, "Tippens went in and told him that Medlin," instead of his neighbor, "had offered him $10,000, we are going to have to lay low for a few days."? I don't know whether your Honor would be worried about that or not. That would be mentioning Medlin but "the neighbor" is the same thing. It's not necessary that Hoffa know or Hoffa mention Medlin's name. It seems to me, it seems to me and it seems to be the law of conspiracy in aiding and abetting, which we think are both the same side of the coin, I don't see that there is that much difference between the two concepts.

The idea there is that you can take each individual's

acts and the jury is entitled to infer a principal-agency aiding conspiracy from each individual act all working towards a common end and that is what was done here.

Certainly Medlin was working towards the common end. Certainly he was working, Hoffa was working toward the same common end and even beyond that there is a specific connection with neighbor, $10,000, lay low for a few days.

Your Honor, let me cite the Court the case of United States vs. Michie, 317 F. 2d 634.

THE COURT: 634?

MR. NEAL: 634, particularly at Page 636, 637, a recent case, 1963, from the second circuit. I won't attempt to summarize it for your Honor but it appears from what I have seen to be on this point.

This case holds, I understand, your Honor, that a man who committed acts in New York and people who made statements in England were held to be a part of the same conspiracy or at least the jury was entitled to infer they were part of the same conspiracy even though it was never shown they ever knew each other.

Your Honor, I think also--I don't recollect the citation now, but it seems to me in Lasser vs. United States, I think it's in Poliafico case the conspiracy or aiding and abetting may be shown from a collocation of all of the circumstances that it's not necessary for all of the parties to

know each other or know the existence of each other, that a conspiracy is generally by implication, it's generally inferred from circumstances.

Now, the only thing that we have fallen short of doing here, your Honor, is to take it every step here.

End Tk 15A
Tk 16 fls.

The only thing we have fallen short of doing here Your Honor, as I can see, is put out an agreement and have Hoffa and Medlin sitting down and agreeing or have Hoffa and whatever intermediaries were used, sitting down and agreeing.

Certainly we have shown the acts and aims of each, and statements of each directed to the same end, generally and specifically.

THE COURT: All right, Mr. Haggerty, do you wish to be heard? If you don't mind, Mr. Haggerty, if you could make your statements rather brief at this time and give the Court then an opportunity to study these memoranda during the noon recess and then if I desire any further argument I will permit you to argue further after lunch, if that is agreeable?

MR. HAGGERTY: Would you prefer that I didn't argue at all at this time?

THE COURT: If you care to make a statement I will be glad to hear you. I do want to have an opportunity of reading the memoranda and studying the cases and then giving the parties further opportunity to argue if they desire to.

MR. HAGGERTY: I think probably it would be more satisfactory then after Your Honor has had an opportunity to study the case law--

THE COURT: (Interposing) All right. Is there anything further to take up at this time? If not--

MR. NEAL: (Interposing) We have documents, Your Honor.

THE COURT: Well, the Court has heretofore ruled on that. Turn them over to the clerk, and the clerk will make them available to the defense in the same manner that they have heretofore been made available.

MR. SILETS: As I take a quick look, Your Honor, all I can see are telephone records. Large number of other documents, and the government thought that in their benevolence thought they would turn over to the clerk these things. And I have yet to see them.

MR. NEAL: We have made our response here. We have hotel records of the witness Partin, all we have. We have telephone records, all the telephone records we have. I'm handing to the Court the only records we have of disbursements to the witness Partin. It is an inter-office memorandum of the Department of Justice. We would not turn it over to the defendants. I represent as has been represented to me on the highest authority that this is all the records we have and we ask that that be sealed and made an exhibit for the Court of Appeals or whomever else is entitled to it, but certainly not the defendants entitled to an inter-office memorandum of the Department of Justice.

MR. SILETS: I don't understand, Your Honor, and I cite my request No. 5 all records of vouchers for monies

paid or any indication or record kept by the government as a record of expenditures made for or on his behalf. Then their response, all such records are hereby tendered for inspection and copying.

THE COURT: Mr. Silets, can I suggest this, let's proceed with the records that we there have and after there have been some opportunity to determine what is there, if you have any further requests then take it up with the Court rather than taking it up at a time when neither you nor I know just what has been produced.

If there is nothing further, let's adjourn court until 1:30.

(Thereupon, at 11:58 a. m. court was adjourned for the noon recess until 1:30 o'clock p. m.)

End 16
Tk 17 fol.

AFTERNOON SESSION

1:30 P.M.
February 13, 1964

(Thereupon, pursuant to adjournment for the noon recess, court was in session.)

(The jury of twelve and four alternates remained excluded from the courtroom and the following proceedings were had, to-wit:)

THE COURT: Gentlemen, with regard to the testimony of the Witness Tippens, this Court is of the opinion that on the present state of the record in this case, the Witness Mr. Tippens should not be permitted to testify as to the content of any alleged out-of-court statement by one Medlin, nor would the content of any such out-of-court statement be admissible as to any defendant in this case.

The Witness Mr. Tippens may be permitted to testify as to the fact of any conversation aside from its content and the matter of any report made by him to Judge Miller, but such testimony would be received only as it might or might not tend to corroborate the Witness Partin as to any alleged statements made to him by the Defendant Mr. Hoffa. It would be considered for this purpose only and as to the Defendant Mr. Hoffa only and it may not be considered for any purpose as to any other defendant.

MR. NEAL: May it please the Court, with regard to

that, and I am not presuming to argue after the Court rules, but merely for an interpretation, I think, and while I may have been strong this morning I want the Court to understand that the government has no -- counsel and Court can disagree respectfully and the Court is calling them as it sees them, there is no question about that. I hope the Court understands that when I argue with the Court.

THE COURT: All right.

MR. NEAL: Now, the one thing I did want to call the Court's attention to, and this is a matter that I think is within the Court's ruling, we understand that he may testify then as to conversation but the Court will instruct the jury that it is not to be considered for the truth of the matter stated but merely that an approach had been made and he reported it.

THE COURT: He may not be permitted to testify as to any conversation that he had with Mr. Medlin other than the fact that he had a conversation. He may be permitted to testify as to any report which he made to Judge Miller but such testimony would be received only as it might or might not tend to corroborate the Witness Partin as to any alleged statements made to him by the Defendant Mr. Hoffa. It would be considered for this purpose and this purpose only and it would not be considered for any purpose as to any other defendant.

MR. NEAL: I appreciate the last part, your Honor, the thing I don't understand is this, I'd like to point out to the Court, without being disrespectful, that this is a case whereby the mere fact that these statements were made is the offense with which we have charged the defendant with aiding and abetting.

In other words, disregarding the truth of the matter of these statements, the fact that they were made. It's just like the Defendant Medlin had handed Mr. Tippens $10,000 without saying anything and he reported it.

These words here, not considering the truth of the matter, but just the fact that the words were uttered, is the offense, and while this was out of the presence of the Defendant Hoffa, the same is true in the Hicks case whereby the Court said that, and there can be no question but that the evidence as to what occurred between Martin and the juror, and, your Honor, on the United States versus Russell, Tippens was a juror within the meaning of the obstruction of justice statute.

Continuing, "and there can be no question but that the evidence as to what occurred between Martin and the juror was properly admitted. It was the fact that the conversation with the juror took place and not the truth or falsity of what was said in the course of it which was material to the charges under investigation."

In other words, the Court is saying this, as I understand it, the same thing we are saying here, the fact that this conversation took place, the fact that Tippens -- Medlin says, "We can make a large sum of money, $10,000, to be paid in hundred-dollar bills. All you have got to do is vote for acquittal."

The fact that that conversation was had and not the truth of the matter is the corpus delicti, is the offense, you see, and maybe that is where --

THE COURT: (Interposing) Yes, I understand what you are arguing, but I will not admit the testimony of Mr. Tippens as to what Mr. Medlin may have said to him out of the presence of any defendant in this case.

As to the fact that there was a conversation between Mr. Tippens and Mr. Medlin aside from the content of that conversation you may examine the witness upon that. As to any report that the witness may have made to Judge Miller you may examine the witness upon that, but that would be received solely for the limited purpose which I have indicated.

End 17
18 fls

MR. NEAL: Then, Your Honor, pursuant to that we call Mr. Tippens for that purpose. We will also have one more witness who we will offer to testify that pursuant to this report and in closed chambers Judge Miller told government attorneys, defense attorneys, and the Defendant Hoffa who was present, of the fact that Tippens had been approached and advised them not to disclose it. It was not out in the paper. It was not made public until after the trial. That wuuld also be within the Court's ruling I think under the charges of the Court, because that was in the presence of the Defendant Hoffa. It clearly corroberates the witness Partin.

THE COURT: Well, I will just have to take up one thing at a time.

MR. NEAL: Well. We may have to ask for an early adjournment on that, Your Honor.

THE COURT: Are we ready to proceed with your next witness?

MR. HOOKER: Yes, sir,

MR. HAGGERTY: May I be heard briefly, Your Honor?

THE COURT: Yes, Mr. Haggerty.

MR. HAGGERTY: I'm not going to argue the law. Your Honor has reviewed the law, but I wish to point out to Your Honor the sequence of events. The case commenced on October 22. At the conclusion of court on October 23, the

entire day had been spent by the government on the voir dire examination of the jurors that were in the box.

This incident allegedly occurred on the evening of the 23rd. On the morning of the 24th, we, I mean, government counsel, and defense counsel, and the Defendant, were called in Judge Miller's office. I have no recollection whatsoever that Judge Miller treated this session in chambers as secret.

There was no talk about it except in my knowledge, in the suite occupied by the lawyers and the client. So it was easy for one to find out in the discussions in reference to this, one who is an eavesdropper, one who is a spy, one who would become thoroughly familiar with this fact elicited and they were there for that purpose.

But it was discussed between the lawyers and the client. I have no recollection of whether or not the witness Partin was there. But I point that factual situation out. Now, if Your Honor please, I take the position--

THE COURT: (Interposing) Do you mean the witness Tippens?

MR. HAGGERTY: No. No.

THE COURT: Excuse me.

MR. HAGGERTY: The witness Partin.

THE COURT: Excuse me. Yes, sir.

MR. HAGGERTY: He was hanging around the suite so

many times I forget when he was there, and when he was there I couldn't positively say.

I say, Your Honor, we have to approach this matter from two theories. First, the principal and agent. There's no testimony that Medlin was authorized by Hoffa to make any statement.

There is no testimony that Hoffa had knowledge of Medlin's statement. Having knowledge of Medlin's statement there is no proof that Hoffa manifested his adoption or approval of Medlin's statement. There is no testimony that Hoffa even knew Medlin. That is all void in the record.

Now, on the conspiracy hearing, there is no testimony that Medlin knew Hoffa. There is no testimony that Hoffa or Medlin acted with each other through an identified or unidentified intermediary. The first requisite to admission of a co-conspirator statement has not been met, namely, that there was an undertaking or an agreement and I say, I point out to Your Honor, that is the distinction between conspiracy law found in conspiracy law and principal and agent.

As the agreement applies to conspiracy law.

Namely, there was no agreement between Hoffa and Medlin to do the act of approaching Tippens.

Now, as to this statement that was made by Mr. Partin, this statement if analyzed namely, the dirty blank went in and told the judge that his neighbor had offered him

$10,000.00. He said we are going to lay low for a few days. This statement identifies no one as having gone to the judge. It identifies no one as the neighbor. It is a narrative of a past act of an unidentified person.

Tippens' testimony would be the statement of a person who although a party defendant is not on trial. We are confronted with Medlin could not be a compulsory witness who refutes the statement under the circumstances which Your Honor is familiar.

Hoffa would be denied constitutional right of confrontation. In other words, Hoffa is now on trial for aiding substantially substantive or aiding substantive offenses, the charge in the indictment is aiding and abetting, a substantive offense, and not for conspiracy.

Therefore, statements made by Medlin are not admissible against him unless a foundation is laid that he was Hoffa's agent and there is no such testimony. That is the absolute missing link in the testimony to date.

Therefore, I say and I respectfully urge Your Honor that there is no, no legal theory which would permit any of Medlin's testimony to be presented before that jury.

And I will point out to Your Honor at the outset, Mr. Neal said when he urged that Tippens originally be permitted to testify, if he could not connect the things with Hoffa, he would move to dismiss the count. That is the statement made

in open court. Now, I point out to Your Honor, that Mr. Neal has absolutely failed several missing links here to connect Tippens with Hoffa.

Therefore, I think that it is incumbent upon Mr. Neal to live up to his promise and I call upon Mr. Neal to dismiss this count, namely, count number two.

THE COURT: All right. Very well, gentlemen, may we proceed? I'm of the opinion that the decision which I announced in this should be the decision I should follow in the light of the discussion by both counsel for the government and counsel for the defendant, and this testimony will be received only to the extent that the Court has indicated and only for the purpose that the Court has indicated.

End 18

19 fol

MR. HAGGERTY: There is one other thing in the transcript. If your Honor would carefully read it on the date of the alleged conversation between Mr. Partin and Mr. Hoffa as the 25th, the records of the hotel so far established that Mr. Partin was in Nashville on the 22nd and the 23rd. My recollection is, and there is an exhibit to prove it, that he returned on the 27th and registered in the Robertson Hotel, the 25th, at 7:50 P.M.

MR. NEAL: He was here on the 25th.

THE COURT: That is a matter, gentlemen, I believe that would address itself to argument and would address itself to the jury.

MR. BRANSTETTER: May it please the Court, of course, I, on behalf of the Defendant Campbell, I would object to any testimony of this witness because I think it could serve no purpose whatsoever other than to be prejudicial in character and since, if I understand the Court's ruling correctly, I think that the government will be placed in a position of getting the so-called conversations repeated because it was said to a judge. Is that the Court's ruling?

THE COURT: Well, I have stated my ruling--

MR. BRANSTETTER: (Interposing) You have read it several times.

THE COURT: I have stated it twice and I will

state it again, if necessary, and, as I have indicated, Mr. Branstetter, I will instruct the jury that it may not be considered for any purpose as to any defendant other than Mr. Hoffa and only as to Mr. Hoffa for the limited purpose that I have indicated.

MR. SILETS: Our position on behalf of Mr. Dorfman is that no instruction is satisfactory for any sort of testimony of this sort would be prejudicial and as a result we would be entitled to a severance.

THE COURT: All right.

MR. BROWN: The same motion for all defendants.

THE COURT: Yes. May we proceed, gentlemen?

MR. BERKE: I will just state one additional objection in the record, if your Honor please, and that is the ruling that the Court has made that you are admitting it solely in order to corroborate or boost the government witness.

THE COURT: No, sir, I am not admitting it to corroborate or boost. I am admitting it as it may or may not, it's entirely up to the jury as to whether it does or does not in any way corroborate anything.

MR. BERKE: In other words, if that is the only purpose of it, if your Honor please, we think it is highly prejudicial to the defendant simply to see if it does in fact tie in with something that this witness said.

THE COURT: The Court certainly cannot pass upon whether it does or does not, it depends upon whether the jury believes it, what credibility they give. Those are jury issues, Mr. Berke, and not for the Court.

MR. HAGGERTY: Your Honor, I have had a hasty review made of the stenographic record of the hearing before Judge Miller and it is reported to me that there was no rule of secrecy invoked by Judge Miller.

THE COURT: All right. May we proceed?

MR. HOOKER: Call Mr. Tippens.

MR. HAGGERTY: Of course, I point out that your Honor's ruling, if you permit the conversation that Medlin had with the Judge or Tippens had with the Judge and he relates the conversation with Medlin it would be the conversation that he claimed he had with Medlin and, therefore, the very purpose of your Honor's ruling would be defeated and I do not believe a proper instruction could be given to cover the subject matter.

You are putting the exact language before the jury if he relates it accordingly that he had with Medlin because I don't know all that he told the Judge but all I know is what the Judge told us that he told him, that is what.

Now, there is no record of what he actually told the Judge, there is no stenographic record of that because

that was between the Judge and Tippens, so what actually you have is compound hearsay.

MR. SILETS: Your Honor, one other point with--

THE COURT: (Interposing) Just a moment. Let me think a moment, Mr. Silets.

MR. SILETS: Yes, sir.

THE COURT: Gentlemen, I believe that the Court's ruling is correct and we will proceed and I will have to rule upon this testimony as we proceed.

MR. SCHIFFER: Your Honor, may I inquire insofar as Parks is concerned? If I understood the statement of Mr. Neal was that it is admitted, of course, that any statement made by or conversation about Medlin and Tippens was not made in the presence of any defendant. Do I further understand that any further conversation held between Mr. Tippens in turn with Judge Miller that no defendant was present?

If that is a fact then there is no question it was not said in the presence of any defendant and whatever Tippens had to say with Judge Miller was clear rank hearsay and as a result--

THE COURT: (Interposing) Mr. Tippens, himself, is a witness. What he said is not hearsay, is it; he is reporting what someone else said.

MR. SCHIFFER: What he had at that time related to Judge Miller without the presence of any defendant would

then again become hearsay for all purposes and clearly falls within the prohibition rule against this kind of hearsay and since none of this transpired in the presence of any defendant then, your Honor, it should not be admitted for any purpose as against any defendant, it's all hearsay now. Assuming that Mr. Tippens went to Judge Miller, as Mr. Neal said.

THE COURT: Well, Mr. Tippens, of course, will be on the stand for cross examination so what he may have said will be subject to cross examination.

MR. SCHIFFER: But he should not even be permitted. If we may have a voir dire on him on that one point we will find that his testimony is that he had a private conference with Judge Miller.

Now, anything he said to Judge Miller, if not in the presence of the defendants, is rank hearsay for all purposes here and I would strongly suggest, your Honor, that we have a voir dire and if he so testifies on the voir dire that he could not testify at all as to any event concerning which Mr. Neal insists upon. He could not testify because in the event he is permitted to testify and he says that he had made a statement to Judge Miller and as a result the attorneys were brought in and some statement was made by Judge Miller, it clearly violates the rule and it would obviate your Honor's own instruction as to what he could

testify and/or could not because the only natural inference there would be that he had a talk with Medlin and Medlin had said something to him, but since he is not permitted to testify to that in the first instance we should not obviate the rule and put him to testify as to other hearsay which is still unconnected and certainly not in the presence of any defendant, whether or not he told Judge Miller or anybody else, nobody was present when he made this statement, your Honor.

MR. HAGGERTY: May I suggest, so you will get the proper perspective of what happened before Judge Miller, that I offer you the transcript of the testimony? It is all contained in a few pages in the front of this transcript and this is the colloquy between the Court and counsel in the presence of the defendant.

End Tk 19
Tk 20 fls.

THE COURT: As I understand, Mr. Haggerty, this is a transcript of the proceedings held before the Court at which counsel for Mr. Hoffa and Mr. Hoffa were present with the Court?

MR. HAGGERTY: That is correct. That is correct. That is the only proceedings that we were present at, I point out to your Honor.

THE COURT: Would counsel consider allowing pages 272 and 273 down to the next to the last paragraph to be introduced and read into the record? And then perhaps we could further limit the testimony?

MR. HAGGERTY: May I have those pages, your Honor?

THE COURT: Yes, sir, you will hand those to Mr. Haggerty. In other words, Mr. Haggerty, I was thinking, if counsel could stipulate that that might be read into the record, the Court then should limit the Witness Tippens and not permit the Witness Tippens to testify as to matters which he told Judge Miller in which he purported to relate any conversation with Mr. Medlin. He would be permitted to testify as to the fact of a conversation with Judge Miller, but not be permitted to testify as to any repeating of a conversation with Judge Miller allegedly had with Mr. --

MR. HAGGERTY: (Interposing) May I inquire of your Honor, that that would be true and we would agree to this, then what would there be left for Mr. Medlin to testify?

Mr. Tippens.

THE COURT: Mr. Tippens?

MR. HAGGERTY: What would be the purpose of his testifying at all then? Under your Honor's ruling?

THE COURT: Well, that I can't pass upon because as I have indicated I would permit him to testify to the fact that he had a conversation, as to whether this man or was not a neighbor of his, but I don't think that he should be permitted to testify as to what Mr. Medlin may have said to him, except for the very limited purpose which I have previously ruled. And my thought here was that if this portion of the record were put in, that the Court could properly consider even further limiting --

MR. HAGGERTY: (Interposing) I would like an opportunity to confer with Mr. Berke on this, your Honor. If I could have --

THE COURT: (Interposing) All right. Of course, this is a matter, too, that addresses itself to the government. The government will have to --

MR. NEAL: (Interposing) As I understand your Honor, to make it clearer, Mr. Tippens would come in then. He would testify that he was seated on the jury.

THE COURT: Well, I don't know what he would testify, Mr. Neal.

MR. NEAL: Assuming he would testify what we try

to do, we try to then advise Mr. Tippens that he is not to go into this subject matter of the conversation. So he wouldn't inadvertently do it. He doesn't know anything about this. What I would understand he would be able to testify assuming he could, of course, we all have investigated and know what he has told us, assuming he could, he would then testify that he was in the jury box on October 23rd on the Hoffa trial. That he left that day around 1:30. He went back to his office. He was told by his secretary that he had -- that he was to call Red Medlin or Lawrence Medlin. That he called him. Later on pursuant to that conversation he met Red Medlin in the afternoon approximate time on October 23rd. That he had a conversation. Early the next morning he reported that conversation to the judge, period.

End 20
21 fls

THE COURT: Well.

MR. NEAL: That would be his testimony.

THE COURT: I am of the opinion that what Mr. Tippens told Judge Miller, even to include any statement originally made by Mr. Medlin, would be admissible but admissible solely and for the very limited purpose of what it may or may not corroborate.

MR. NEAL: I understand that.

THE COURT: The testimony of Mr. Partin.

MR. NEAL: If they agree to this statement.

THE COURT: If they agree to that statement then I think that the Court should eliminate from Mr. Tippens' testimony any report that he may have made to Judge Miller as to the content.

MR. NEAL: Yes.

THE COURT: Mr. Medlin's conversation with him.

MR. NEAL: That's what I was addressing myself to. If they agree to reading this in then he would merely get up and say, "I reported." He would get up to the point the next morning, "I reported the conversation to Judge Miller period."

THE COURT: He could say anything--

MR. NEAL: (Interposing) Well, I mean--, all right.

THE COURT: Anything he told Judge Miller except he could not tell Judge Miller what Mr. Medlin said if we were

to proceed in this manner.

MR. NEAL: We understand.

MR. HAGGERTY: May I inquire when Your Honor said this would be considered in evidence for a limited purpose, would that be read into the record with or without the jury, I mean would this--

THE COURT: (Interposing) I don't understand.

MR. HAGGERTY: Would this statement consisting of two pages, would that be read into the record in the presence of or without the presence?

MR. NEAL: If it's not in the presence of the jury you can do anything you want to, it doesn't make any difference.

THE COURT: Yes. Instead of putting the court reporter on and placing that portion of the record in through the court reporter, I was wondering if you all might consider allowing it, stipulating it as being what the reporter would testify that portion of the proceedings were.

MR. BERKE: If Your Honor please, without even conferring with Mr. Haggerty I can state now that counsel for the Defendant Hoffa, we wouldn't agree that this evidence is in any form admissible, nor would we stipulate on it.

We don't mind stating that this transpired but not that it can be used as evidence in this case and present it to the jury.

THE COURT: I think I understand your position in

that respect, Mr. Berke.

MR. BERKE: All right. Now, then, Your Honor, I think that the Court should give this a little more consideration on this point here. The Court is permitting for a limited purpose evidence which it is not admitting on the offense itself, that is, for substantive purposes.

Now, I wish to remind the court that a review of cases will show that not only is evidence of conversations not admissible but acts or what they do is not admissible. It's not just limited only to conversations.

Now, what this court is doing is saying, "Now, you can't say what Mr. Medlin told you, Mr. Tippens, that is not admissible."

THE COURT: Well, those acts are being admitted solely for the limited purpose which the Court has indicated, Mr. Berke, the same as on the conversation.

MR. BERKE: I understand, I am not confused about that except that what the Court is actually doing is saying that, "You can't testify what Medlin told you but you go in and tell the judge, you can testify that you went in and told Judge Miller Medlin says so and so and so and so."

In other words, you are getting in the very conversation which is objectionable, which the courts have held is not admissible, and if it's only for a limited purpose the harm is still done there. In other words, the evidence is

still in there before the jury. It would be highly prejudicial.

It is getting in something indirectly which the government cannot get in directly. If it is an attempt to prove that Partin in this respect is telling the truth it can have no evidentuary value because this matter about the 25th, if Your Honor please, you must recall this happened on the 24th, Partin didn't check into the Robertson hotel until the 25th at ten minutes until eight in the evening. By that time this matter had become public, at least if it wasn't in the press it was certainly known among all counsel and all of the parties, they all knew about this. It is a matter which Partin could or could not easily fabricate. This is not a matter that is secret to show that he happened to know ahead of time. A lot of people knew it by that time.

The Court is letting it go in to see if it does cooborate Partin when that is not really a useful purpose at all and it's highly prejudicial and the Court should, before allowing something like that to go in, be sure if the defendants' rights are being protected.

Now, this is admissible only, if at all, on the second count of the indictment, the substantive offense. If it's not admissible for that purpose it's not admissible to go in to see if it cooborates some witness.

We think that the Court--, this is a serious matter--, we think the Court should give it more thought

because you are letting something go in which is highly improper, which the courts have heretofore held, and the Court has gone along with us on that and we think the Court is right, but in going along with it that doesn't mean that it could be admissible for some other purpose. It is not admissible for any purpose, not admissible against the defendants for any purpose.

End 21

Tk 22 fol.

Now, if it is not admissible against the defendant for any purpose, why would it be admissible solely to see if it corroborates the government witness? It certainly wouldn't be that and I think, if your Honor please, if the government is going to fail on this count, which apparently the government conceives it will have to fail on it, the thing to do is dismiss the second count. It is not even admissible on some matter relating to the second count because apparently the second count is not here any more.

This is strictly a highly prejudicial statement. All it does is just to see if it corroborates then if it is not important enough to prejudice the defendant's right to bring in something that is highly inflammatory, highly improper, something that the jury should not be concerned with, and we think that the Court should reconsider it and rule that this is improper in any event.

MR. HAGGERTY: I point out further to your Honor, that aren't we in the condition of the second count, aren't we now in the position that what the government is attempting to prove is in fact a similar act, a similar act, proven for the purpose of attempting to be proven for the purpose of bolstering up or corroborating the testimony of the Witness Partin? Now, as I see it, your Honor has two choices. The first choice is, if it is put in evidence or allowed in evidence, even for a limited purpose, which is a very limited

purpose to corroborate Partin, your Honor is ignoring the general rule of law that if it creates such a great prejudice against the defendant, in this instance I think it does, then your Honor has to balance and decide which theory to take, and I respectfully urge your Honor that you take the theory of the great prejudice.

Again, may I say, your Honor, that the conspiracy was completed at the time of this alleged conversation between Mr. Hoffa and Partin on the 25th. The conspiracy had been terminated.

So I say respectfully that it should not be admitted for any purpose.

MR. SCHIFFER: May I further suggest, excuse me --

MR. BRANSTETTER: (Interposing) I don't want to belabor the point, but I think it is not only an interesting point of law of evidence but it is also very important one, even to Defendant Campbell, because I do not think and I think this Court knows as all human beings know, that a jury after many weeks is told to disregard many times, can't disregard it.

I'm in the state of confusion myself as to what they may regard seriously.

Now, here is what we are doing, may it please the Court, we say that Medlin talked to Tippens. Tippens talked to Judge Miller. Now, at this point we have three steps

removed from the original statement. Then, and this is the rankest sort of hearsay, that could be offered in any court, then there is no connection other than the fact that Judge Miller made it a fourth move away from the original source by reporting this to defendant and counsel.

This had nothing to do whatsoever with its admissibility.

THE COURT: Gentlemen, I think we are confusing something about hearsay. Mr. Tippens is on the stand. What Mr. Tippens says that he said is not hearsay. What Mr. Tippens says that Mr. Medlin or someone else may have said certainly would be hearsay. It might or might not be admissible, depending upon whether or not it fell under some recognized exception, but when we start talking about hearsay because there is some sequence of individuals you determine hearsay upon the basis of what witnesses on the stand, anything that that witness himself may have said is not hearsay.

MR. BRANSTETTER: May it please the Court, if he is reporting a conversation with some third person not in the presence of the defendant it falls squarely within the hearsay rule if I understand it.

THE COURT: If he is reporting what some third person told him, yes, that is clearly hearsay.

MR. BERKE: What else could he say, excuse me.

MR. BRANSTETTER: Surely.

MR. BERKE: What else could he say, a Mr. Medlin who is a neighbor said so and so and I'm reporting it to you.

If he came in and said I had a cup of coffee with the judge, that would be a different story. He is stating what he is doing but when he starts to relate any conversation whether it is by summary or word for word, then that is hearsay. He can come in and say, well, I went in and talked to Judge Miller. Now, that is not hearsay. I grant that. He can say I came in and talked to Judge Miller. At that time so and so was there, but the minute he starts saying what he told Judge Miller then that is hearsay.

Of course, I understood the Court originally and I could be wrong, I thought all the Court was going to let him do is say well, I just came in and reported something to Judge Miller. And then let the government say well, that sort of corroborates this witness but not to come in and say I am reporting a conversation whatever it is, that would be hearsay.

That is worse hearsay than Medlin to Tippens because the government certainly doesn't claim that Tippens is authorized by Hoffa in any way at all. They contend that Medlin was, but the Court has ruled against them on that, so there is no theory upon which any conversation that he had with Medlin would be admissible under the hearsay rule.

THE COURT: Gentlemen, I believe -- I believe my

ruling --

MR. BERKE: (Interposing) Of course, furthermore, I would like to call the Court's attention to the fact that the Court stated that it would give Mr. Haggerty an opportunity to, before the Court commits itself, it is different once the Court commits itself on a ruling, give Mr. Haggerty an opportunity if there is going to be any sort of ruling that would permit any of this evidence for any purpose --

THE COURT: (Interposing) Gentlemen, I've been doing that for the last hour.

MR. BERKE: I know, but the Court announced a ruling before it did that and we think now the Court should reconsider the ruling.

THE COURT: Mr. Berke, I've been reconsidering all the time I've been listening.

MR. BERKE: In other words, to let Tippens just come in and say why I told Judge Miller that Medlin said so and so, that would be -- that is strictly hearsay, if your Honor please. We think it is fundamental. We know that there are exceptions to the hearsay rule but this is not the exception.

THE COURT: All right.

MR. BERKE: Because it is so highly prejudicial, that is the reason we are being so insistent as we are about it.

MR. SCHIFFER: Would your Honor bear with me, I have an additional ground to advance to the Court.

That is with respect to the remaining Count 2. It says that Defendant Hoffa aiding, abetting, counseling, commanding, inducing, and procuring Medlin to do a certain act; now, we come back to the original vice of this entire proceeding, insofar as principal and agent is concerned, that we have submitted what we believe all the authorities on the point, and we have submitted those about two weeks ago as I recollect, your Honor.

Now, we are now facing the fruits of the evil that the government wants to put into this case which they themselves not adhering to the rules set down by the upper courts in this case have supposed principal and agent.

End 22
23 fls

TK 23
EW 1

Here we have the case where one defendant is charged with aiding and procuring evidence as a principal, someone else to do a certain unlawful act. They don't put in any evidence up to this point of a principal and agency--establishing a principal and agent theory in any other case up to this moment.

Now, they suddenly come forth and they say, "Now, even though we can't prove any agency or principal relationship as between the Defendant Hoffa and this man Medlin, we, nevertheless, are going to introduce evidence of what Tippens, a total stranger, had to say to a District Court Judge."

Now, your Honor, the vice is very evidence now. That means the government wants a conviction on a count with complete failure of establishing a principal and agency.

Now, they want to take some fruits of that failure on their own part to show a relationship of an illegal nature. Now, they want to have someone come in with rank hearsay, who is not even a party to a purported principal and agency and have that party testify as to an independent event which had nothing whatever to do with a principal and agency and, your Honor, this is part of the illegal fruit of permitting the government to go count after count after count, never prove any principal and agency as they have alleged in the indictment, and I would assume that everybody knows the rule that the prosecution is bound by the charges

stated in the counts of the indictment, but here the Court would, in effect, be permitting the prosecution to depart from their own charges as they have specifically set them forth in the count and now let them come in and say now, "Even though we didn't prove that what we said these defendants had done, we want to bring a third party in now who, without the presence of any of the defendants, went to a judge and gave him a story and now we want the jury to hear that story."

How, your Honor, without a connection and a showing on the record up to this point of principal and agency, under what theory then does Tippens' relationship with Judge Miller and anything he told him, how can that be used at this point and introduced before this jury in any way to substantiate the charges of Count 2?

THE COURT: All right. Well, of course, it is not being admitted for that purpose, it is being admitted for the very limited purposes that I have indicated. It is not being admitted to sustain the charge in Count 2 as you suggested or indicated it might be possible. Let's proceed.

MR. NEAL: Your Honor, do I understand now that just purely as a matter, without waiving any of their rights, that we will not have to call the court reporter down to read this into the transcript, without waiving any rights as to admissibility that merely that happened, do I under-

stand that?

MR. BERKE: No, no.

MR. HAGGERTY: No.

MR. NEAL: Well, you just handed it to the Court.

THE COURT: Let's return this.

MR. BERKE: I thought I made it clear to the Court, I thought the Court understood we do not agree to that record in there.

MR. NEAL: Very well.

MR. BERKE: Mr. Neal, now, is trying to say we agreed to it.

MR. NEAL: No.

THE COURT: The Court didn't understand at all that you agreed.

MR. BERKE: That's right.

THE COURT: Now--

MR. NEAL: (Interposing) I didn't say they agreed, merely that they would agree that this is what happened, as not being admissible but that we need not have the reporter here to get this in if the Judge rules it may be read, it may be read like this.

MR. BERKE: We don't want to make any agreements because we don't think it's competent for any reason or any purpose.

MR. NEAL: We will have the witness here.

THE COURT: All right.

MR. HAGGERTY: One other thing, your Honor. I can't see the distinction under your Honor's ruling, first of all, as to the sanctity of the conversation and why it makes it any difference between Judge Miller and Tippens.

I will ask your Honor what is the difference between Tippens being permitted to tell Judge Miller or being permitted to tell what he told the government agent or any third party? I see no distinction. I don't think it gives it an air under the rule of evidence of special sanctity.

THE COURT: Well, I will let Mr. Tippens testify as to the fact of the conversation with Mr. Medlin without content. I will allow him to testify to the fact of a conversation with Judge Miller without including in that conversation, however, the content of any of Mr. Medlin's statement to him and I think that that is proper. I think the Court--

MR. NEAL: (Interposing) Well.

MR. BERKE: Under that we are all right.

MR. NEAL: Your Honor, that is not--your Honor said a few minutes ago that Mr. Tippens could testify as to what he told Judge Miller.

THE COURT: Yes. I have indicated that he can testify as to what he told Judge Miller.

MR. NEAL: Well.

MR. SCHIFFER: Except as to what Tippens told him as to what Medlin told him.

MR. NEAL: He may testify, as I understand, to what he told Judge Miller.

THE COURT: Well, let's proceed. We will have to rule upon these as the witness testifies.

THE MARSHAL: Let's have order in the court, please.

MR. SILETS: Your Honor, is it possible that we have a voir dire examination?

THE COURT: No, I don't believe that would be proper in this case. Let's proceed. Have the jury return and have the witness.

(Thereupon, the jury of 12 and 4 alternates returned into open court and the following further proceedings were had, to-wit:)

MR. DALE: I swore you the other day, didn't I?

MR. TIPPENS: Yes, sir.

JAMES C. TIPPENS,

a witness called at the instance of the United States of America, having been previously duly sworn, was recalled and testified further as follows:

FURTHER DIRECT EXAMINATION

BY MR. HOOKER:

Q Will you state your full name, please, sir?

A James C. Tippens.

Q Where do you live, Mr. Tippens?

A Brentwood, Tennessee.

Q Is that in Davidson County?

A Williamson County.

Q Williamson County. What business are you engaged in?

A I am in the insurance business.

Q Where?

A In Nashville.

Q Were you subpoenaed for jury duty in the fall of 1962?

A Yes, I was.

Q Do you recall when you first reported for jury service?

A It was around the first week in October, I don't know the exact date.

Q Were you later called as a juror in any particular case?

A No, I was--I was on the panel but I never participated in any trial.

Q Well, I understand, but were you seated on the jury, in the jury box in connection with any particular case?

A Yes, yes, I was.

Q And what case was that?

A That was the Hoffa case.

Q In what court?

A Judge Miller's court.

Q That's the United States District Court at Nashville?

A That is right.

Q Do you remember what day it was that you were first seated in the jury box in that case?

MR. SILETS: Your Honor, does Mr. Hooker mean seated by being sworn in?

MR. HOOKER: No, sir; no, sir.

A Well, the week before October the 22nd--

MR. HAGGERTY: (Interposing) Wait a minute. I think under your Honor's ruling in this case that anything prior to his being seated, not chosen but seated in the jury box, is incompetent, irrelevant and immaterial.

THE COURT: Overrule that objection at this time.

A Judge Miller selected, as I recall, three panels.

MR. HAGGERTY: I object to that, may it please the Court.

THE COURT: Yes, sustain that objection.

MR. HAGGERTY: Ask it be stricken.

THE COURT: Strike that.

BY MR. HOOKER:

Q Well, to get along, do you remember what day it

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Tippens - Direct

was that you were seated in the jury box in connection with the case against the Defendant Hoffa?

A On the 22nd of October.

Q The 22nd. Now, did you report--after court adjourned that day, where did you go?

A I went to my office.

End Tk 23
Tk 24 fls.

Q Were you back in the court the next day, that is the 23rd?

A Yes. I reported back on the 23rd.

Q Do you recall what day of the week that was? It shows on this calendar here, I think? On Tuesday, October 23rd?

A Yes, sir.

Q On Tuesday, October 23rd, after the adjournment of Court, had you been sworn in at that time?

A No.

Q Where did you go after court adjourned that day?

A I went back to my office.

Q Did you have any telephone conversation at your office?

A Yes, sir.

Q With whom?

MR. BRANSTETTER: May it please the Court, I think this is quite leading.

MR. BERKE: And I think this is what the Court has already ruled on, if Your Honor please.

THE COURT: Overrule the objection. As to whether the fact whether he did or did not have a conversation.

BY MR. HOOKER:

Q I'm not asking you what was said, Mr. Tippens, but did you or not have a telephone conversation?

A Yes, sir, I had a call and I answered the call.

Q And with whom did you talk?

MR. SCHIFFER: Objection.

MR. BERKE: We want to object to that as being immaterial, Your Honor, improper, incompetent.

THE COURT: Sustained without some foundation.

BY MR. HOOKER:

Q Did you recognize the voice of the person to whom you talked?

A When I returned the call, I recognized the voice to whom I talked.

Q Did you have--, what do you mean when you returned the call? How did you get the call?

A The number was left for me to call.

Q And after this telephone conversation that you had from your office, what did you then do?

A I went by to see this party at his request.

MR. SCHIFFER: Objected to.

THE COURT: Overruled.

MR. BERKE: That is objected to, Your Honor.

THE COURT: Overrule the objection.

BY MR. HOOKER:

Q Who was the party?

A Mr. Lawrence Medlin.

Q Was that the same or different party from the one

that you had talked to over the telephone?

A That was the same party.

Q Same party, and where did you see Mr. Lawrence "Red" Medlin?

A At his place of business.

MR. BRANSTETTER: May it please the Court, I don't know that he said anything about Lawrence "Red" Medlin.

THE COURT: Sustain the objection.

BY MR. HOOKER:

Q Did I, what was his full name, Mr. Tippens?

A Lawrence Medlin.

Q Does he have a nickname?

A Nickname was "Red".

Q "Red", where did you see Mr. Lawrence "Red" Medlin?

A I saw him at his place of business.

Q Did you have--, don't state what was said, but did you have a conversation with him?

A Yes, I did.

Q Where did that conversation occur?

MR. SILETS: Your Honor, none of this is material to the issues here. And this conversation with Mr. "Red" something or other, I move that it be stricken.

MR. BRANSTETTER: May it please the Court also I would like to move that it be stricken on the basis that anything that was said was purely hearsay.

THE COURT: Ladies and gentlemen, the testimony of this witness will not be considered by the jury for any purpose as to any defendant other than the Defendant Mr. Hoffa. And it would be considered as to the Defendant Mr. Hoffa only to the extent that it might or might not tend to corroborate the witness Partin as to any alleged statements made to Partin by the defendant Mr. Hoffa. In other words, any testimony of this witness will be considered by the jury only for that limited purpose, that is, as to whether it does or does not tend to corroborate any testimony of the witness Partin as to what allegedly Mr. Hoffa may have said to Mr. Partin.

It will not be considered for any other purpose and it will not be considered as to any other defendant in the case.

MR. BERKE: If Your Honor please, we respectfully object to the Court instructing the jury that it is applicable to any particular defendant since the Court's ruling that it has some effect as to a certain witness so the Court picking out any one defendant we certainly want to object to that because that is what we consider contrary to the Court's ruling, and contrary to the law.

We respectfully submit that the Court said it might be admitted generally for that purpose, but not that it would apply particularly to any more than one than it would

anybody else. And we think that the Court should retract that if Your Honor please, because we don't think that is the purpose for which this is being admitted and I think if the Court gives careful consideration that the Court's ruling in this case is not as we understand it.

Of course, we object to it in toto anyway. But I think certainly if Your Honor will reflect and you will see that we're correct in that. That by singling out any particular defendant not that it would make any difference, but we think it is highly prejudicial and should not have been done by the Court.

THE COURT: Well,--

MR. HAGGERTY: (Interposing) May it please the Court, may I supplement Mr. Berke?

THE COURT: Yes, sir.

MR. HAGGERTY: I call Your Honor's attention to the fact that at the time of Your Honor's instructions this witness did not even mention as you did the Defendant Hoffa's name.

THE COURT: Well, Mr. Haggerty--

MR. HAGGERTY: (Interposing) May I finish?

THE COURT: Yes, sir. Excuse me.

MR. HAGGERTY: I say may it please the Court, that your instructions have in fact, however well intended, invaded the province of the jury and at this time having done so I move for a mistrial in behalf of Defendant Hoffa.

THE COURT: Overrule that motion. An objection was made and the Court has given to the jury what it believes to be the proper instruction.

MR. HOOKER: Shall I proceed, Your Honor?

THE COURT: Yes, sir.

BY MR. HOOKER:

Q Where did the conversation with Mr. Medlin occur, Mr. Tippens?

A In my automobile.

Q And where was your automobile?

MR. BERKE: If Your Honor please, now, why would all this be admissible, if Your Honor please? All these side matters instead of coming to the very thing that the Court is going to, all of this is not part of what the Court said would be admissible.

THE COURT: Overrule the objection.

BY MR. HOOKER:

Q Where was your automobile, Mr. Tippens, when you and Mr. Medlin had the conversation?

A It was parked at the rear and the side of his business premises.

Q And have you stated where that was located?

A Eighth Avenue.

MR. BERKE: Object to that as being immaterial, if Your Honor please.

THE COURT: Overruled.

THE WITNESS: On Eighth Avenue and if I'm not mistaken the number is 812. It is the Rede-Made Sandwich Company.

BY MR. HOOKER:

Q In the city of Nashville?

A Yes, sir.

Q About what time of day was it?

A It was around four o'clock in the afternoon.

Q Now, after this conversation with Mr. Medlin where did you go then, Mr. Tippens?

A I went--, I went home.

Q Went home. On the following day, that would be October 24, did you have a conversation with anybody?

A Yes.

Q With whom?

MR. HAGGERTY: I object to it as being incompetent irrelevant and immaterial.

THE COURT: Overrule the objection.

THE WITNESS: I had a conversation with Judge Miller.

BY MR. HOOKER:

Q Where did--

MR. SILETS: (Interposing) Your Honor, I'm going to ask that be stricken because this conversation, of course,

doesn't have any reference to any defendant so far. There is no testimony concerning that. And in addition to the fact that he did in fact allegedly have a conversation with a judge, lends some additional weight to whatever matters Mr. Hooker is trying to develop here and I object to it and say that the instructions of the Court to the jury cannot adequately protect the defendants in this matter.

THE COURT: Overrule the objection.

MR. BERKE: If Your Honor please, we want to object to it because the record will show that the Court has definitely ruled that this was not competent and we will be glad to read the Court's ruling into the record.

THE COURT: Overrule the objection.

BY MR. HOOKER:

Q Where did the conversation with Judge Miller take place?

A In his office.

Q Where, where is his office?

A At the courthouse in Nashville.

Q United States Courthouse?

A United States Courthouse.

Q Is this the same Judge Miller that was presiding over the case in which you were seated in the box?

A Yes, sir.

Q All right, Mr. Tippens, tell His Honor and these

ladies and gentlemen of the jury what you stated to Judge Miller on the morning of October 24, 1962?

MR. BERKE: If Your Honor please, we want to object to this. This is the rankest of hearsay, if Your Honor please. It is asking him to relate a conversation he had with somebody when this witness doesn't know Mr. Hoffa. No proof that this Lawrence "Red" Medlin knows Mr. Hoffa. There is no evidence in the record of any principal-agent. It is strictly hearsay. The type of hearsay the Court has repeatedly for weeks now let out and held to be inadmissible. Now we think this is clearly inadmissible. It has nothing to do with the Defendant Hoffa. In fact, any defendant here. None of the parties were present at the time. It is not a statement made by Mr. Hoffa. It is not a statement made by any agent of Mr. Hoffa's. And we think at this point it is time that the Court ruled that this is hearsay and not admissible.

End 24

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THE COURT: Well, the witness will be permitted to testify as to his conversation with Mr. -- with Judge Miller. He would not be permitted to testify as to what Mr. Medlin may have told him, other than the fact that there was or was not a conversation with Mr. Medlin. Overrule the objection with that limitation.

BY MR. HOOKER:

Q Go ahead and state the conversation with Judge Miller.

MR. BERKE: Just a minute, if your Honor please. I don't know that the witness understood the Court's ruling on this and I think the Court should --

THE WITNESS: (Interposing) I think I understand.

MR. BERKE: Should simply state that he had a conversation. I understand that is now the Court's ruling and not to relate what the conversation was.

THE COURT: He can report -- he can testify as to the fact of having had a conversation.

MR. BERKE: That's right.

THE COURT: If that is the subject of his testimony. He cannot testify as to the content of what someone else may have told him but he can testify without that as to what he said to Judge Miller. Proceed, gentlemen.

BY MR. HOOKER:

Q All right. Go ahead, Mr. Tippens.

A I went in to Judge Miller's office and told him that I felt that I should be disqualified as a juror due to the fact --

MR. SILETS: (Interposing) Now, your Honor --

MR. BRANSTETTER: (Interposing) May it please the Court --

MR. SILETS: (Interposing) We are going into his mental processes, your Honor, and that's not competent here.

THE COURT: Overrule the objection.

A That I felt like that I could not serve under the conditions that existed in which were namely I had been offered --

MR. BERKE: (Interposing) Just a minute, if your Honor please.

MR. NEAL: Now, your Honor --

MR. BERKE: (Interposing) Just a minute, if your Honor please.

MR. NEAL: That's not the conversation.

MR. BERKE: If your Honor please, I think that I would have the right to state my objection without Mr. Neal continually popping up like he has.

If your Honor please, we think that this is clearly inadmissible. It violates the rules of the Court and the rule that you had in directly permitting him, even if he

doesn't recite exactly the conversation, it's his conclusion, which is still worse, if your Honor please, as to what had transpired as far as the conversation he had with somebody totally unconnected with Mr. Hoffa, in no way related to Mr. Hoffa, no agent of Mr. Hoffa's.

I am sure this gentleman doesn't know Mr. Hoffa, never heard of him, nor does the other gentleman, Mr. Medlin.

We say this is clearly improper for him to come in and state after the Court has stated that all he can do is go in and say he had a conversation without reciting what Mr. Medlin had said or what he had told him. Now, the Court -- if he is permitted to answer it will again violate the Court's rule.

THE COURT: Ladies and gentlemen, we have problems of admissibility of evidence, as you have certainly learned by now. There are conditions when hearsay statement or statements of what someone else said to a witness are admissible and there are circumstances when such statements are not admissible. There are circumstances when such statements may be admissible just for very limited purposes and for very limited consideration by the jury under circumstances when they may not be admitted generally. The Court, as you recall, has had occasion to instruct you upon several times with regard to hearsay statements or out-of-court statements or statements made by some third party to the witness and as

to how and when it may be considered by the jury and to that extent, and that is one of the problems that we are faced with at this particular time with this witness' testimony.

MR. HAGGERTY: If it please the Court.

THE COURT: Yes, sir.

MR. HAGGERTY: If your Honor please.

THE COURT: Yes, Mr. Haggerty.

MR. HAGGERTY: May it please the Court, I object to your Honor's statement to the jury is highly prejudicial and ask it be stricken and the jury instructed to disregard it.

THE COURT: All right, ladies and gentlemen, disregard my remarks in that respect.

MR. BERKE: Well, if your Honor please --

THE COURT: (Interposing) Excuse me, no, sir, it wouldn't be proper for a juror to ask a question, sir.

MR. BERKE: That goes back to the very thing that we have stated to the Court on numerous times that it's idle fancy to believe that by the Court simply stating, "Disregard it," --

THE COURT: (Interposing) Well.

MR. BERKE: We think -- I am moving for a mis-trial now and stating the reason, if your Honor please. It is impossible, humanly impossible, because we contend that the Court does not have that type of an eraser that can erase

prejudicial evidence in a record and we say that the evidence is clearly incompetent, it's clearly hearsay, and, of course, we just think --

THE COURT: (Interposing) Well, overrule your motion for a mistrial.

MR. BERKE: All right.

MR. SCHIFFER: May all the defendants in that motion?

THE COURT Yes. All the defendants may join in the motion and the motion will be overruled as to all defendants.

MR. HOOKER: Shall I proceed, if your Honor please?

THE COURT: Yes, you may proceed.

BY MR. HOOKER:

Q Continue, Mr. Tippens, with your answer.

THE COURT: The witness will not be permitted to testify as to the content of a conversation with some third party. He may tell of the fact of such conversation, if that is pertinent to his testimony, but he cannot tell the content.

A I told Judge Miller that I felt disqualified to serve on the jury due to the fact that I had been offered a sum of money.

MR. BERKE: That's the content, if your Honor please, that is the content we --

THE COURT: (Interposing) Sustained.

MR. BERKE: We are only objecting because we think the Court has ruled that the content is not proper.

THE COURT: Sustain the objection as to the content.

MR. HOOKER: You mean --

MR. BRANSTETTER: (Interposing) May it please the Court, we ask, move that his statement be stricken, and the jury instructed to disregard it.

THE COURT: Strike the statement as to content.

A Well, I told Judge Miller that I felt disqualified to serve on the jury, that I had had a conversation with a neighbor that would prejudice my position and service.

MR. SILETS: Your Honor, I move that that be stricken. This is a conclusion on his part that he is stating.

THE COURT: Overrule that objection.

A And that that was the sum and substance of what I said to Judge Miller without giving any information other than that I had told him that I felt disqualified, if I am not permitted to say what was the reason.

Q Don't answer this until His Honor rules on it. Did you state anything to Judge Miller about whether or not there had been any offer made?

MR. SILETS: Objection.

MR. HAGGERTY: Object to the question as leading to begin with.

MR. SILETS: This whether or not business. We have gone through three weeks of that now, Mr. Hooker is an able and experienced trial lawyer, he knows that when he asks a question he seeks to elicit facts, not whether or not. There may be 14 alternatives and he is putting it in a direct alternative, whether or not such and such happened. He knows that is improper.

MR. HOOKER: I am trying to direct his attention, if your Honor please, without violating your Honor's ruling that he can't tell about a conversation with anybody else.

THE COURT: Well, overrule the objection.

BY MR. HOOKER:

Q Did you understand the question?

A Repeat the question, sir.

Q Did you say anything to Judge Miller about whether or not any sum of money had been offered to you?

A Yes.

MR. BRANSTETTER: Now, may it please the Court, there he has done it.

THE COURT: Sustain the objection.

MR. BRANSTETTER: Well.

MR. SILETS: Your Honor, I move for a mistrial.

THE COURT: Overruled.

MR. SILETS: Mr. Hooker knows better than that.

THE COURT: Overrule the motion.

BY MR. HOOKER:

Q Well, was there anything else in your conversation with Judge Miller that you haven't related that does not involve repeating your conversation with somebody else?

A What I told Judge Miller was that I felt disqualified to serve on the jury and that I did not come there to persecute or prosecute anyone and that that was the purpose of my visit to disqualify myself.

Q Well, what happened after that, Mr. Tippens?

A He called a meeting of the lawyers, I suppose.

MR. BRANSTETTER: Now, may it please the Court, I am sure this witness doesn't know that.

THE COURT: All right.

A He told me they were going to have a --

MR. BRANSTETTER: (Interposing) I object to what he told him, may it please the Court.

THE COURT: Sustained.

MR. HAGGERTY: Ask that that be stricken, if your Honor please.

THE COURT: Sustained.

A A conference.

Q Well, did you continue to serve on the jury?

A No, sir.

Q Did you report this conversation that you had with Judge Miller to anybody else later that day?

MR. BRANSTETTER: Now, may it please --

MR. HOOKER: (Interposing) Not what you stated but did you report?

MR. HAGGERTY: Incompetent and immaterial under your Honor's ruling.

THE COURT: Overrule the objection.

MR. HAGGERTY: Your Honor ruled that he could as to Judge Miller, no provision was made for anyone else.

THE COURT: Overrule that objection.

A That day I talked to Judge Miller did I talk to anyone else?

Q Yes. And report the conversation?

A Yes, I talked to Mr. Medlin.

Q Where?

A At the barn where he keeps his horses.

Q Is that anywhere near your place?

A Yes, it's about a half a mile from my place, it's right on the road that goes in front of my house.

Q About what time of day was that?

A That was approximately the same time of day as the previous day, around 4:00 o'clock, somewhere along in there.

Q Around 4:00 o'clock in the afternoon?

A Yes, somewhere around that.

Q On the same day, October 24th, 1962?

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26 fls

A That's the same day I talked to Judge Miller.

MR. HOOKER: If your Honor please, before I conclude Mr. Tippens' examination, there is another matter that I want to find out if it is admissible for me to inquire into and we would like to ask your Honor to excuse the jury at this time so we can determine it.

MR. BERKE: If your Honor please, of course, that is all right, but we think the whole, making it look like a mystery is just so prejudicial, if your Honor please, we want again, if your Honor please, with due deference to the Court's ruling, we think that it is just impossible to do anything about this prejudice that has already been let in. We want the Court to know that this thing is highly prejudicial, not that it will do anything as far as the second count is concerned, but the whole thing, the way it has been handled and conducted.

THE COURT: Overrule that objection. Do you wish to excuse the jury at this time?

MR. HOOKER: Yes, sir.

THE COURT: All right, ladies and gentlemen.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom and in their absence, the following proceedings were had, to-wit:)

MR. HOOKER: If your Honor please, in the absence of the jury in order that the Court might have the question clearly before you, I would like to ask the witness

actually what he was--what he said to Judge Miller. We submit that his conversation with Judge Miller, notwithstanding the fact that it incorporated some language used by someone else, is competent and is corroborative of the Witness Partin. With this limitation on it here, it really is not full enough for the jury to get much meaning from it and we think--

THE COURT: (Interposing) Well, you can ask him as to whether or not he reported to Judge Miller his conversation with Mr. Medlin, but the Court doesn't feel it would be proper to report--for him to testify as to what that conversation was.

MR. HOOKER: Or the fact that the conversation included an offer of a sum of money?

MR. BRANSTETTER: May it please the Court, the Court just ruled against that and he tried to inject it any way on three separate occasions. All he is doing now is seeking to go back--

THE COURT: (Interposing) Well, yes, you may include the fact--the testimony of the Witness Partin alleged that Mr. Hoffa said to him the dirty so-and-so went and told the Judge that his neighbor had offered him $10,000.

MR. NEAL: He has got the neighbor part out and all we need on it is to corroborate--

MR. SILETS: Your Honor, what is the witness

doing here while we are discussing this?

THE WITNESS: I know it by heart.

MR. SILETS: Do you want to educate this witness?

MR. NEAL: Anybody who knows James C. Tippens knows you can't get him to testify to something other--

THE COURT: (Interposing) You may step out.

MR. HAGGERTY: The trouble is we know Mr. James Neal.

MR. NEAL: You don't know me.

(Witness temporarily excused.)

THE COURT: You will be permitted to ask the witness as to whether he related to Judge Miller the fact that he had a conversation with Mr. Medlin. You will not be permitted to relate the conversation had with Mr. Medlin other than to the extent of any sum of money. To that limited extent only.

MR. HOOKER: But to the extent that he was offered the sum of money?

THE COURT: To that limited extent and for the very limited purpose that the Court has indicated.

MR. HOOKER: That is what I undertook to ask him, if your Honor please, and I want to try again.

MR. SILETS: Your Honor, may I now be heard for a moment? I take due notice of Mr. Hooker in his wisdom talking about the offer. The question came up that much was

offered. We had a juror, and I want the record to indicate we had a juror so vitally interested in this that he raised his hand in the jury box and the Court had to caution him that he could not ask a question. Following that we get a statement concerning a sum of some $10,000. This comes out to the jury. Now, your Honor, I suggest to the Court in all deference, no man and we have seen a visible, physical example of that, no man can sit in that jury box and say to himself, well, now, I am going to listen to the Judge's instructions and cast this all out of my mind and not consider it and because the Court has ruled it stricken from the record it is stricken from my mind.

I would like to read a very pertinent statement to the Court in a case called Dunn vs. United States, Fifth Circuit, 1962 case.

There was a comment by the prosecutor and this is what the Court said, "The paths of justice must cut through a wilderness of fact in every instance. Opinions of prosecutors or different counsel are not issues to be submitted to the jury. The statements made by the District Attorney could not be based on evidence to be presented or actually presented. Evidence to support his statements if tendered cannot be severed. We are always concerned with guilt and innocence in criminal cases. But of equal importance is a fair trial to guilty and innocent alike.

Trials are rarely, if ever, perfect but gross imperfections should not go unnoticed. Every case involving improper arguments of counsel or in this case improper testimony as well, we are confronted with the relativity and the degree to which such conduct may have affected the substantial rights of the defendant.

"It is better to follow the rules than to try to undo what has been done. Otherwise stated, one cannot unring a bell or after the thrust of the saber it is difficult to say to forget the wound and finally, if you throw a skunk into the jury box, you can't instruct the jury not to smell it."

End Tk 26
Tk 26A fls.

THE COURT: It seems as though we have heard that several times, Mr. Silets.

MR.SILETS: That's right, Your Honor, and the Fifth Circuit thought enough of those words to say it in another case and reverse the decision.

When I hear Mr. Hooker talk about an offer, he is cut off, and then I hear the juror raise his hand and want to ask a question and then Mr. Hooker comes back with something about $10,000.00, there is nothing the Court can instruct the jury. They are sitting on the edge of their chairs, they are waiting for who? Was it Dorfman who gave the $10,000.00? Was it Dorfman who tried to reach this man? They don't know and they will never know. There is no way to instruct the jury any more. Your Honor right now I now move on the status of this record for a mistrial or a granting of a severance as to Mr. Dorfman.

THE COURT: Overrule the motion.

MR. SCHIFFER: So moved on behalf of Mr. Parks.

THE COURT: Overruled as to Mr. Parks.

MR. GRADY: Your Honor, could I--

THE COURT: (Interposing) Allow it to be made on behalf of all defendants and overruled as to all defendants.

MR. GRADY: Could I add to it, I would like to make our motion as to Mr. Tweel in addition to these other grounds on Your Honor's ruling, that they could not put in

the contents of the statement by this other man in and that Mr. Hooker did that very effectively to the jury contrary to Your Honor's ruling.

The only consideration that this man could have had with Medlin was he received an offer of a bribe of $10,000.00 and Mr. Hooker after Your Honor ruled, interjected that and that is so prejudicial, of course, as I say, nobody will know to which defendant it applied, to Mr. Tweel, we ask for a mistrial and or severance.

THE COURT: Overrule that motion.

MR. HOOKER: I thought the juror that raised his hand might just have wanted a recess, if Your Honor please.

THE COURT: Well, certainly--

MR. BRANSTETTER: (Interposing) May it please the Court, let the record show that he said he wanted to ask a question. The juror and the court instructed him that it was not the proper time to ask a question. Let's keep the record--

MR. HOOKER: (Interposing) I didn't hear him say anything.

MR. REDDY: The juror didn't say anything.

THE COURT: The Court did not hear the juror say anything except Your Honor.

MR. SILETS: Your Honor, I would like for the record to disclose that it was made at 20 minutes to three and

the juror and all the jury as well all counsel noted the time for recess is three o'clock and which time it is now. So that under no conception can this man have been thought to have been asking for a recess.

MR. BRANSTETTER: May it please the Court, we would request the Court at this time to call in that juror or the jury in its entirety, its totality, and ask him what he was trying to ask the Court so it will be a matter of record.

THE COURT: Overrule that request.

MR. HOOKER: Is Your Honor ready to proceed?

THE COURT: Mr. Hooker, you will be limited in asking this witness as to whether or not he did or did not report to Judge Miller any conversation that he may have had with Mr. Medlin. I believe that should be the limit at this time. Quite frankly, gentlemen, I think the conversation would be admissible as to what he told Judge Miller on there. I'm trying to be extremely cautious in the matter. Protect the rights of all defendants in this situation. I think that the testimony would be admissible upon the issue of whether or not it might be considered to corroborate the testimony of Mr. Partin. In an effort to be just as cautious as I possibly can I've limited the government to this very great extent. If the Court is making error in this situation, the Court is making error against the government in the Court's opinion.

MR. HOOKER: If Your Honor please, I want to obey Your Honor's ruling of course. My understanding originally was that Your Honor had held that I could ask him whether or not he related to Judge Miller that he had had a conversation with a man named Medlin.

THE COURT: Yes, sir.

MR. HOOKER: That fact. And also whether or not in that conversation a sum of money was mentioned.

THE COURT: You can relate, you can question him as to whether he related that conversation to Judge Miller but not the substance of the conversation I believe.

MR. HOOKER: Nothing about the content of it.

THE COURT: That's correct. I believe that would be the safer course to pursue under all circumstances. Resolve every possible doubt on this matter in favor of the defendants.

MR. SCHIFFER: Your Honor, while Your Honor is resolved doubts, may I respectfully point out that Mr. Hooker has deliberately violated the pronouncement of the Court in this sence that he himself is the one who talked about an offer. He is the one who used something about $10,000.00. And he said now it is completely manifest that Mr. Hooker did this, under the direction of the Court, despite the direction, and we will move for a mistrial, Your Honor.

THE COURT: Overrule that motion. Let's take a

ten minute recess.

MR. NEAL: Your Honor, could we have just one more minute before you do?

THE COURT: Yes, sir.

MR. NEAL: I realize, Your Honor, that the govem-ment can't appeal these things, and I understand the desire of the Court to exercise all doubt in favor of the defendant but the government is entitled to the best judgment of the Court, too, on these things. Now, the Court, of course, the government strongly feels--, feels very strong about this matter that we would be entitled to put on proof of the conversation between Mr. Tippens and Mr. Medlin. We had additional cases and additional brief on that point and we think we had some cases that were right on the point.

End 26A

tk 27 fol

THE COURT: Well, let me consider the matter further. Let's take a 10-minute recess.

MR. NEAL: Let me say, your Honor, just before you go that we do, as I say, in all respect, we don't want reversible error or anything but we think that the government as a party to this suit is entitled to the Court's best judgment and even though it might be a close-to-the-line decision in the matter.

THE COURT: All right.

(Thereupon, at 3:05 o'clock, p.m., a recess was had.)

(The jury of twelve and four alternates remained excluded from the courtroom following the recess and the following proceedings were had, to-wit:)

THE COURT: All right. The witness will be permitted to testify as to whether he reported the conversation or any conversation he may have had with Mr. Medlin to Judge Miller but he will not be permitted to testify as to the content of Mr. Medlin's conversation. I believe that that will best serve the limited purpose for which the testimony is being here admitted.

MR. HOOKER: Now, I want to be strictly responsive to your Honor's ruling. Does that mean that I cannot ask him whether or not an offer of a sum of money had been communicated to him?

THE COURT: No, sir. The issue as to whether it does or does not corroborate -- well, just strike those remarks. I believe that it would best serve the purpose for which the testimony is here being admitted if it were limited to the fact of whether he did or did not report the content of his conversation with Mr. Medlin to Judge Miller without relating to the jury here what the content of that conversation was.

MR. HOOKER: All right. I will ask him whether or not he reported to Judge Miller that he had had a conversation with Lawrence (Red) Medlin. The answer is, "Yes."

I ask him did he report the content of that conversation to Judge Miller without stating it?

THE COURT: Yes.

MR. HOOKER: All right.

THE COURT: Have the witness returned.

MR. BRANSTETTER: Haven't we established that?

MR. BERKE: I think that has been.

MR. BRANSTETTER: Certainly.

MR. HAGGERTY: Certainly that's in the record.

THE COURT: No, sir, there isn't anything in my notes to indicate that he ever --

MR. HOOKER: (Interposing) I want to --

THE COURT: (Interposing) Had a conversation with Judge Miller in his office, the courthouse at Nashville,

the same judge who presided over the case. I told him that I felt I should be disqualified as a juror. I felt that I could not serve under the conditions due to -- that I had had a conversation with a neighbor, and that was where we interrupted the matter.

MR. BERKE: Is the Court going to again try to get this $10,000, whatever it is, out of the jury's mind if there is any possible way to do it?

THE COURT: Well, I think I have given the jury the proper instructions heretofore in regard to all of his testimony. Just a minute, gentlemen.

MR. NEAL: May it please the Court, before the jury is called back in, then I guess that instead of asking that they be excused again as soon as Mr. Medlin or Mr. Tippens leaves the stand, our next witness being the court reporter or someone who is capable of testifying to what Judge Miller told the defendant and his attorney and then we will rest our case.

Now, we do not have that person here at the present time, it will be either Judge Miller, the court reporter, or some other attorney other than myself.

THE COURT: All right.

MR. HAGGERTY: We certainly are going to object to that, your Honor, right now.

THE COURT: Well, let's cross one bridge at a

time. I have enough objections at one time.

MR. NEAL: The only reason I am bringing that up rather than us getting up and asking that the jury be excused is so that the Court will know, as I understand it, that when we complete with Mr. Tippens we will not have another witness available this afternoon, that is, the first thing in the morning we will have.

THE COURT: Well, is Mr. Partin available? I will allow the defendants to cross examine Mr. Partin with regard to the telephone records that have been introduced into evidence since --

MR. HAGGERTY: (Interposing) We haven't had possession of them yet.

THE COURT: Well, Mr. Haggerty, they were introduced in the record yesterday.

MR. HAGGERTY: Telephone records, you mean the group under subpoena?

THE COURT: No, I am talking about the telephone records that were introduced yesterday after Mr. Partin was on the witness stand, there were various telephone records that were introduced and I had indicated to the defense that they would be permitted to cross examine if they desire to cross examine Mr. Partin with regard to those telephone records that were introduced after he had been released from the witness stand.

MR. BRANSTETTER: May it please the Court, I had understood, I thought rather clearly, that the Court would permit us, assuming it was appropriate otherwise, to cross examine Mr. Partin on any records that were actually introduced or any records that were actually introduced or any that the government turned over to us. I believe the record will show that.

THE COURT: I am not going to bring Mr. Partin back just interminably for cross examination. Let's proceed with this matter at this time and if Mr. Partin is available after this witness is over we will bring him back for that purpose that I have indicated. If there is any other purpose to cross examine him on I will have to take that up at the time.

MR. NEAL: May I read the record when Mr. Partin was finally released by Mr. Berke? The last question, "You say you don't know that you made 31 calls?

"Answer: That is right, sir.

"THE COURT: All right. Any redirect examination?

"MR. HOOKER: Anything further for any of the defendants?" Silence.

"THE COURT: All right.

"MR. HOOKER: That is all, if your Honor please. The witness can stand aside.

"THE COURT: You may be excused at this time,

Mr. Partin.

"THE WITNESS: Thank you, sir.

"MR. SILETS: Your Honor, we would serve a subpoena on this man."

The Court said, "Well, now, in regard to any subpoena served upon him, you will have to tender him the mileage from here to Baton Rouge and back, and the per diem as required by law. This witness will not be expected to go at his own expense down to Baton Rouge."

THE COURT: I recall that record quite well, Mr. Neal.

MR. NEAL: I wanted to go a little further, "And the per diem as required by law." "Per diem and he then becomes your witness on any further examination in that respect."

Your Honor, my recollection is that your Honor said with respect to these records that we have introduced he may be cross examined on and certainly they can do that at this time.

MR. BRANSTETTER: May it please the Court, would the Court permit us at the appropriate time to be sent to the Court the statements from the record as to the cross examination?

THE COURT: I have some recollection of what I have said and let's proceed, gentlemen, have the jury and the

witness returned.

JAMES C. TIPPENS,

a witness called at the instance of the United States of America, having been previously duly sworn, was recalled and testified further as follows:

(Thereupon, the jury of twelve and four alternates returned to open court and the following further proceedings were had, to-wit:)

THE COURT: Ladies and gentlemen, if you will just bear with us on the problems. The Court has many, many decisions to make in the trying of this case. I am trying to move it along, as are counsel, as best we can. I just ask that you please bear with us in an attempt to understand the problems that we may have in this respect.

BY MR. HOOKER:

Q Mr. Tippens, as I understood you to say that Mr. Medlin was a neighbor of yours?

A Well, his barn is right nearby but his home is probably six or seven miles from where I live.

Q But you are neighbors as far as your country place is concerned?

A Yes.

Q Now, state whether or not you reported to Judge Miller on the morning of October 24th, 1962 --

MR. HAGGERTY: (Interposing) Objection.

Q (Continuing) -- that you had a conversation with Mr. Lawrence Medlin.

THE COURT: Don't quote --

Q (Interposing) Don't state what was said but just the fact of whether you had such a conversation.

MR. SILETS: Your Honor --

Q (Interposing) Did you report that to Judge Miller?

MR. SILETS: Objection, your Honor.

THE COURT: Overrule the objection.

A Yes.

Q Did you report to Judge Miller, without stating the conversation that you had, that is, the content of it, did you tell Judge Miller what the content of the conversation was, that is, what Mr. Medlin had said to you?

A Yes, sir.

Q Was that on the same occasion that you were disqualified as a juror?

A Yes, sir.

MR. HOOKER: That's all.

THE COURT: All right.

End 27
28 fls

THE COURT: Now, gentlemen, the court is constantly hearing statements made by counsel in the defense area, questions, and statements, that are not for the record. The attorneys that are participating for the record let them state what they please. The attorneys that are not participating for the record, let's do not be making these open-public statements in the courtroom. I have instructed you on that two or three times before.

MR. HAGGERTY: May it please the Court?

THE COURT: Yes, sir.

MR. HAGGERTY: I make a motion at this time to strike all of Mr. Medlin's testimony. I beg your pardon, Mr. Tippens' testimony from the record and ask if Your Honor refuses so to do, that you grant a mistrial.

THE COURT: Overrule that motion. Each of those motions. Ladies and gentlemen, I would again give you the instructions that I did before and that is , that the testimony of Mr. Tippens would be considered by you only as it might or might not tend to corroborate any testimony of the witness Partin as to any alleged statements made to him by the Defendant Mr. Hoffa. It wuuld not be considered for any other purpose and it would not be considered as to any other defendant.

MR. HAGGERTY: I again object, may it please the Court, to Your Honor's statement to the jury.

THE COURT: Yes, sir. Overrule the objection.

CROSS EXAMINATION

BY MR. HAGGERTY:

Q Mr. Tippens, prior to your talking to Judge Miller on the morning of October 24, 1962 had you ever talked to Mr. Hoffa?

A No, sir.

Q Did you ever talk to Mr. Hoffa?

A No, sir.

Q Did you know Mr. Hoffa?

A Only by sight.

Q And that sight was obtained in the courtroom, is that true?

A That is true.

MR. HAGGERTY: No further questions.

THE COURT: All right. Any further cross examination of this witness? If not, may he be excused? All right, sir.

(Witness excused.)

MR. HOOKER: I stated, if Your Honor please, that is the only witnesses that we have available at this time. We would have one or two other witnesses before closing our case in chief.

THE COURT: Is Mr. Partin available?

MR. HOOKER: As far as I know, he is.

MR. NEAL: We have sent for him, Your Honor. I don't think he is here at this moment. I'm told that. But he certainly should be here before a few minutes elapses. We're sorry about that. We didn't know until a few moments ago that he would be desired.

MR. BRANSTETTER: May it please the Court, I don't believe that we are in adequate position at this time under the previous rulings of the Court, the Court has ordered and I understand has under the table, there is about 150 pounds of papers that the government is going to turn over to us and we have not seen those and we think some of the testimony that was to be used will be necessary--

THE COURT: (Interposing) Well, the Court will limit any further cross examination of Mr. Partin to the records that have been introduced since he testified last upon yesterday.

MR. HAGGERTY: May I call Your Honor's attention to one matter, a subpoena was quashed by Your Honor this morning. That witness has been re-subpoenaed. And those have to do with records and those records are needed for the cross examination for some of them may be Mr. Partin--

THE COURT: (Interposing) Mr. Partin's further cross examination will be limited to the extent the Court has indicated.

MR. HAGGERTY: Do I understand you are depriving

us Your Honor if we find material in this that we cannot use it?

THE COURT: I'm not depriving you of anything, Mr. Haggerty. There has been the Court feels quite extensive cross examination of this witness and the Court has some reasonable responsibility in that respect.

MR. HAGGERTY: Well, despite the fact that the records are being held by the government and in their possession--

THE COURT: (Interposing) Well, now, gentlemen, if we are going to argue these matters they should not be argued in the presence of the jury.

MR. NEAL: Your Honor, I move that that statement be stricken because that is not the fact.

THE COURT: Disregard that statement, ladies and gentlemen.

MR. BRANSTETTER: I believe the Court, in the matter of records had handed up to the Court--

THE COURT: (Interposing) Any other cross examination other than what I have indicated will be taken up at a later date in the absence of the jury. Now, is there any indication when Mr. Parrin might be made available?

MR. SCHIFFER: If the Court please, we have not had an opportunity as far as Mr. Parks is concerned, some of my co-counsel have not yet seen the records to which Your Honor has referred as telephone records; might it not be more

apropos--

THE COURT: (Interposing) Mr. Schiffer, didn't you examine each of those records yesterday as they were introduced by witnesses? Weren't they passed to you and you examined each one of them?

MR. SCHIFFER: Your Honor, I thought there were other records that Your Honor was referring to, I am in a quandry as to what records Your Honor is referring to.

THE COURT: I am referring specifically to the records that have been introduced in evidence by the govern-ment since Mr. Partin left the witness stand.

MR. NEAL: I think it will be about ten minutes, Your Honor, so I'm advised.

THE COURT: All right, then, let's be in recess for about ten minutes.

(Thereupon, at 3:32 o' clock p. m. court was in recess.)

End 28

Tk 29 fol

(Following the recess the jury of 12 and 4 alternates remained excluded from the courtroom while the following proceedings were had, to-wit:)

THE COURT: Apparently I need to send the attorneys after the officer this time. I have been unable to find the officer.

Gentlemen, as indicated, the Court will limit any further cross examination of Mr. Partin at this time to exhibits introduced into the record subsequent to his appearance on the stand and his being excused following his cross examination, that will mean to any exhibits 134 and following.

Now, there was some indication to one of the court officers that the defendants might not desire to cross examine further on those exhibits. I want to determine that before we proceed.

MR. BRANSTETTER: I made the statement to the court officer, may it please the Court, that if the Court was ruling that Partin could be further examined only on those matters that had been made exhibits after he testified that I didn't think that there would be any cross examination on those specific items.

THE COURT: All right.

MR. BRANSTETTER: I had understood the ruling of the Court to the contrary and I think that the record

should show that the government has now tendered to us what looks to be five or six hundred exhibits of various sorts, not exhibits, pieces of paper of various sorts that they had subpoenaed and held under subpoena power and kept us from having during the cross examination of Partin and others.

THE COURT: Well, let's--

MR. BRANSTETTER: (Interposing) I would say there are 6,000.

THE COURT: Let's determine first, do I understand then that you do not desire further cross examination upon Exhibits 134 and subsequently?

MR. BRANSTETTER: I think all counsel will agree that that is true.

THE COURT: All right. Well, in that event then it will not be necessary to have Mr. Partin brought here this evening.

MR. BRANSTETTER: We would except to the Court's ruling and could we ask one other matter, a paper was handed to the Court that dealt with the payment of monies to Partin or his wife and we would like to request that that be furnished to the defense counsel under the Jencks Act.

MR. SILETS: The government, in its response, your Honor, to my oral motion stated that there were tendering it to us for inspection and copying but instead they turned it over to the Court.

MR. NEAL: Of course, I have no authority to turn over inter-office memorandum of the Department of Justice. If your Honor wants to censure me for saying that, perhaps I shouldn't have said it and I bow my head and take whatever censure the Court wants to give me, but I have no authority to turn over inter-office memorandum to the defense counsel.

MR. SILETS: Well, what I have got here we are saying was signed by the United States Attorney.

THE COURT: There is no signature to it at all. It appears to be a very brief inter-office memoranda. There is--

MR. SILETS: (Interposing) No, sir, I am talking about the response to my oral motion. The government said they were in fact tendering it to us in this 3-page response signed by the United States Attorney, Mr. Neal, and Mr. Hooker, I guess.

THE COURT: Well, let's clear this up first. If there is no further cross examination of Mr. Partin in accordance with the instructions of the Court then I think we should excuse the jury for the afternoon and allow them to depart.

MR. NEAL: Yes. Your Honor, before you do that, there is one matter I have been asked to ask about the telephone representative from Baton Rouge, Louisiana. He

is here. He asked me to bring that up.

THE COURT: He was retained yesterday at the request of the defense.

End Tk 29
Tk 30 fls.

MR. BRANSTETTER: May it please the Court, until we see these records consisting of thousands of documents, we don't know. I know this is a difficult thing.

MR. NEAL: Couldn't they bring him back as their witness if they have any relevant proof?

MR. BRANSTETTER: May it please the Court, the government has had all of these records under their subpoena power. The defendants have not had them. They have only turned them over as of noon today. We haven't actually got them yet. They are sitting over there.

MR.NEAL: Your Honor, the witness has been sitting here eight days.

THE COURT: Yes, I'm going to excuse the witness subject to coming back at your request.

MR. HAGGERTY: Well, he will have to be coming back.

THE COURT: He can remain under subpoena but I think he should be permitted to go home. You don't plan to use him tomorrow, do you, Mr. Haggerty?

MR. HAGGERTY: I make this as a suggestion to the Court, I think he would be invaluable, being telephone man, he would, if Your Honor would direct him to assist us in going through those voluminous records.

THE COURT: Well, I have no right to order him to do that. If you gentlemen wish to employ him or work out

some arrangement with him to do that, that would be up to you. But it is not anything the Court can order.

MR. NEAL: I will advise him he is subject to recall.

THE COURT: All right.

MR. NEAL: He has been here eight days. He asked to be relieved now.

THE COURT: All right.

MR. NEAL: Advise him.

THE COURT: Now, then, is it the request of counsel that we have the jury called back for the purpose of giving the usual instructions upon their returning?

MR. HAGGERTY: No, Your Honor.

MR. BERKE: No, Your Honor.

THE COURT: All right, the jury may then be released at this time to report back at nine o'clock in the morning.

At this time, gentlemen, the Court, if the defendants desire to do so, the Court will permit further examination of Mr. Sheets and Mr. Sheridan in regard to any Jencks act statements on the witness Fields.

Is there any request for any further examination of Mr. Sheets or Mr. Sheridan?

MR. BRANSTETTER: May we have a moment to check that because it has been several days and I don't recall

specifically what he had reference to.

THE COURT: Yes, if you will refer to page 1840, et seq., in the record. At the time you will recall the Court conducted the examination of these two witnesses indicating that in the Court's opinion this was not an adversary proceeding. There was some request at that time that further examination be permitted by counsel for the defense. If counsel for the defense desire to do that, I will permit them to do so at this time.

MR. SCHIFFER: If it is germane, Your Honor, I would ask the marshal of this court to have returned Mr. Carl Fields and Patrolman Walker before the prosecution closes its case, or if they should close because of the hour, that we be permitted to then cross examine them in accordance with our reservations, and of course no one knows how the progress of the case goes from day by day, it is four o'clock now as a matter of fact and we should like to continue that tomorrow. So we may prepare for that.

Momentarily while associate counsel is going through the records finding the page Your Honor referred to, I don't have a copy of that record before me, I would ask the court's indulgence while we check the record with reference to Mr. Sheets and Mr. Sheridan.

MR. NEAL: We've had Mr. Carl Fields and Mr. Jack Walker return, Your Honor, but I don't know, Mr. Schiffer

cross examined both of these rather extensively. It wasn't my understanding Mr. Schiffer was reserving, but I would have to check the record.

MR.SCHIFFER: I believe it is on the record.

MR. NEAL: If it is on the record, that is the last word. They asked for them to be back here at noon today.

THE COURT: Which witness is that?

MR. NEAL: Witness Carl Fields and Jack or James T. Walker. Now, we broke our necks last night, I guess we broke their necks too because it was a very imperative demand on the government last night at seven o'clock I was advised of it at seven o'clock.

MR. SCHIFFER: I made the request during the court session here yesterday not at seven o'clock.

MR. BERKE: Six o'clock.

MR. NEAL: Very well, made at six o'clock and I got word of it at seven. I said by all means have them here at twelve o'clock noon today.

MR. SCHIFFER: In the event the government can't find them expense money to keep them overnight, I will pay for it myself, Judge.

MR. NEAL: It is not a matter of that, Your Honor, I am just apprising the Court of this fact. These people have jobs.

MR. SCHIFFER: Well--

30-5

MR. NEAL: (Interposing) Request the cooperation of everyone. If we have to call these people back that we try to.

THE COURT: Really this should have been called to the Court's attention before we excused the jury if you desire to take it up this afternoon proceed with their examination this afternoon before I excused the jury.

MR. SCHIFFER: Your Honor, with all that has been going on this afternoon, we are not in position to continue here. If it works a hardship on the government to keep them overnight I will pay the cost of their sojourn overnight.

MR. NEAL: It is not a hardship on the government, Your Honor, we had them here. I don't know what our obligation was.

MR. SCHIFFER: I'm not challenging the government what their obligation is or not. I am saying by the course of events today, it is a late hour.

End 30

THE COURT: Is there anything further at this time?

31 fol.

THE COURT: Is there anything further?

MR. NEAL: If the Court advises, shall we keep them here tonight?

THE COURT: Is that the request?

MR. SCHIFFER: That is my request, your Honor, provided, of course, we can finish on all of the motions tomorrow before we have to go into the evidence for the defense and if it should take an additional day, why, it will take an additional day. I will pay him another night's lodging. Later on in the government's case, your Honor, I understand that they are to be cross examined because of the reservation made, however, I say this to your Honor, if the government feels it's an imposition to hold these witnesses who have testified for them and the government cannot afford now to pay two nights lodging for two witnesses where they can pay somebody support and alimony, I will pay it.

THE COURT: All right.

MR. HAGGERTY: I call this to your Honor's attention in reference to Messrs. Sheets and Sheridan.

THE COURT: Yes, sir.

MR. HAGGERTY: That occurred several weeks ago. I believe you will find it's around page 1840 of the transcript. We would need a short time to prepare for that, your Honor, the examination of those gentlemen to be conducted sometime tomorrow.

31-2

THE COURT: Well.

MR. HAGGERTY: Maybe that the witnesses now have testified that it would be too late, but we can decide that by tomorrow morning. We would have to determine the record.

THE COURT: I am just trying to avoid as much delay as possible in using the jury. We have some time this afternoon and if tomorrow we have to take up this again, another collateral matter in the absence of the jury, it just delays us that much longer. I would prefer if there are any further examination of these witnesses that we do it this afternoon while we have some time.

MR. NEAL: Your Honor, since the jury is excused, we can stay here until 5:00 o'clock and give them some time to go over that. The witnesses are here and available and they have been asking me also when they are going to get this over with.

MR. HAGGERTY: Well, Mr. Sheridan is here permanently. It certainly doesn't inconvenience him.

THE COURT: It is not a question of inconveniencing the witnesses at all, it's a question of not utilizing the jury.

MR. BRANSTETTER: May it please the Court, of course, most of the matters that were dealt with were at that particular time. I don't think any counsel has here in the court, if we did we would be stacking them up like this

(indicating), the matters that we want to check in the hotel, I am sure. We can't determine whether or not we would want to examine them on these matters until we see what it's about and see what statements were actually furnished.

I don't think there is any deliberate effort on the part of defense counsel not to adequately utilize the time, but it's a fact that several days have passed and we don't have the records to look at and see where we are and see what need may be at this point.

I believe, may it please the Court, that all defense counsel, certainly speaking for myself, could really take the additional 15 minutes and get some rest rather than continuing court.

THE COURT: Well, could you do this, gentlemen, could you advise the Court this afternoon sometime? I will be here until 5:30, possibly 6:00 o'clock, advise the Court sometime this afternoon whether you will desire to do that.

MR. BRANSTETTER: I am sure we could.

THE COURT: All right. Call the Court and leave the message with my secretary then, if you will, please, before 5:30 as to whether you desire to.

MR. BERKE: Desire to do it when, in the morning?

THE COURT: Desire to examine Mr. Sheets or Mr. Sheridan further with regard to any Jencks statement of the Witness Walker.

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MR. BERKE: You mean desire to do that in the morning?

THE COURT: Yes. I am not going to call you back tonight.

MR. BERKE: Oh, all right.

THE COURT: Let's adjourn court until 9:00 o'clock tomorrow morning.

(Thereupon, at 4:07 o'clock, p.m., court was adjourned until 9:00 o'clock, a.m., February 14, 1964.)

End 31

REPORTER'S CERTIFICATE

I, Fred B. Downing, Official Court Reporter for the United States District Court, for the Eastern District of Tennessee, Southern Division, at Chattanooga, Tennessee hereby certify that Richard Smith and John E. Hamlin, court reporters, in accordance with stipulation of counsel for the parties filed in this case, recorded by machine shorthand the proceedings had in open court in the above styled case on February 13, 1964; and that said proceedings were reduced to typewriting under my supervision; and that the foregoing transcript is a true and correct transcript of the said proceedings to the best of my knowledge.

This the 13th day of February, 1964.

Fred B. Downing
Official Court Reporter